

Children's Rights and the Criminal Protection of Minors

Erika VÁRADI-CSEMA

ABSTRACT

The development of the criminal law protection of minors relates to the rise of children's rights. Even today, this area of law exerts one of the most powerful effects on juvenile criminal justice. It also serves as a filter through which the quality of the regulations regarding minor offenders and victims can be measured. Therefore, the study examines the topic of children's rights, primarily its evaluative aspect. It discusses the facts related to the suppressing of attacks against minors and the rules for juvenile offenders in the complex review of the criminal law rules affecting minors. Common historical influences play an important role in the development of the criminal policy of Central and East-Central European countries. Belonging to the Soviet era and the socialist state system provided a common ideological framework for the attitude toward young offenders and for defining the framework of, for example, parental rights and educational tools. The political change in each country caused a serious social cataclysm, which sometimes induced the development of a more marked penal policy and the need for more decisive action against juvenile offenders. Meanwhile, international documents played an important role in the spread of new alternative or community sanctions. The accession to the Council of Europe and later to the EU brought the noted countries back into a common framework.

The study focuses on the CEE-countries, and aims to provide a general overview, from a historical perspective, of the development of children's rights and criminal justice.

KEYWORDS

children's rights, criminal policy, juvenile justice, criminal policy tools, CEE countries

'Momma has been in the habit of whipping me almost every day.'
(Mary Ellen Wilson¹)

On April 11, 1874, the New York Times² reported on the criminal proceedings that were going on before Judge Abraham R. Lawrence in the Supreme Court Chambers.

At the center of the case was eight-year-old Mary Ellen Wilson, who suffered cruel treatment from the two defendants, Francis and Mary Connolly. The accused woman

1 New York Society for the Prevention of Cruelty to Children, 2022.

2 New York Times, 1874.

Váradi-Csema, E. (2022) 'Children's Rights and the Criminal Protection of Minors' in Váradi-Csema, E. (ed.) *Criminal Legal Studies. European Challenges and Central European Responses in the Criminal Science of the 21st Century*. Miskolc–Budapest: Central European Academic Publishing. pp. 413–435. https://doi.org/10.54171/2022.evcs.cls_15

with her previous husband, Thomas McCormack, adopted the child, an orphan at a young age.³

On April 21, 1874, the sentence was issued. The judge found Mary Connolly guilty of felonious assault and was sentenced to one year of hard labor in the penitentiary.

1. Children's rights in the focus

The history of the development of children's rights closely relates to the development of the protection of children by juvenile justice. The role of criminal law in enforcing the rights of minors is two-fold: it wards against the most serious attacks that harm or threaten the interests of children, with the coercive force resulting from the exercise of state criminal power while considering the biological and psychological characteristics of minors, their special social status, and their vulnerable situation, which result in special vulnerability. However, considering the level of their intellectual, psychological, and mental maturity, rules for juvenile offenders are partially different from those of adults, and, when applied, the focus is typically on individual prevention. Education is the means to achieve the latter.

Regarding both approaches, the enforcement of children's rights can be a common measure of the quality of regulation. In the 21st century, children's rights are ever-expanding and growing in depth; thus, their enforcement through national criminal law, criminal procedure law, or penal law regulations is a priority.

1.1. *The first steps*

Mary Ellen's story is a good example of how the protection of children,⁴ especially against parenting methods, did not initially receive special attention in modern societies. Comprehensive legal protection was lacking, and a general concept of children's rights was not developed. However, by the end of the 1800s, several important rules were already in place in the USA.

The excessive physical disciplining of children was prohibited. However, in New York, another law focused only on children receiving state welfare that gave the right to remove children neglected by their caregivers. The interpretation of such laws was challenging in the practice. Hence, New York City authorities were reluctant to intervene, although they had information about the situation of Mary Ellen.

For many reasons, such as high child mortality, the acceptance of corporal education tools, the prevalence of child exploitation given the industrial revolution, and serious social problems (e.g., poor public safety, poverty, and civil war), society did not show special sensitivity to children's vulnerability. Thus, although the people living in the girl's previous residence knew about the abuse, no substantive intervention was made.

3 Markel, 2009.

4 See Watkins, 1990, pp. 500–503.

Criminal proceedings were rarely conducted, especially against the parents. Their right to raise their children was universally recognized, and among the used methods, punishment was widely allowed. According to the opinion of the court:

'The right of parents to chastise their refractory and disobedient children, is so necessary to the government of families and to the good order of society, that no moralist or law-giver has ever thought of interfering with its existence, or of calling upon them to account for the manner of its exercise upon light or frivolous pretences. But at the same time that the law has created and preserved this right, in its regard for the safety of the child it has prescribed bounds beyond which it shall not be carried.'

On this theoretical ground, the court in the case of 'Johnson and Wife vs. The State'⁵ stated, that '(I)f a parent in chastising his child exceed the bounds of moderation, and inflict cruel and merciless punishment, he is a trespasser and liable to be punished by indictment.' It means that the extent (not the usage) of punishment was classified as an offense; that is, whether it exceeds 'the bounds of moderation and reason, and was barbarous in the extreme.'

Abusive behavior and cruel teaching methods of adults toward children were tolerated in society. However, there were legal ramifications when it 'was grossly unreasonable in relation to the offense, when the parents inflicted cruel and merciless punishment, or when the punishment permanently injured the child.'⁶ In some egregious cases, criminal charges were brought.

Millions of children in the USA lived in a situation similar to Mary Ellen's during this era as well. The little girl's story changed when they moved into New York's (NY) 'Hell's Kitchen' district. One new, chronically ill, and homebound tenant neighbor informed her Methodist mission worker that she often heard the cries of a child across the hall. When Etta Angell Wheeler met the little girl, she found that she was neglected and abused. She decided to help the child, but despite her efforts, she did not get any meaningful legal redress or protection for Mary Ellen. The terrible situation of children is indicated by the fact that in 1866 there was already a law protecting animals in the state of New York, and in April of this year the American Society for the Prevention of Cruelty to Animals (ASPCA) was founded. Early examples⁷ of action against attacks on animals are known, though the property value and economic usefulness of farm animals (such as horses) played a major role in these cases (e.g., in 1788, in the county of Berks, the trial court convicted the defendant for a 'maliciously, wilfully, and wickedly killing a horse').⁸ Cruelty to male children, if of a sexual nature, was already punishable as sodomy and bestiality: '*if any man shall*

5 Johnson v. State, 21 Tenn. 283, 2 Hum. 283, 1840.

6 Mason, 1972, p. 304.

7 1846 Vt. Laws 34.

8 Republica v. Teischer, 1 Dall. 335, 1788.

*commit the crime against nature with a man or male child, or any man or woman shall have carnal copulation with a beast.*⁹ However, this was possibly not in the interest of the child but because of a violation of the general moral perception. The 1867 New York Anti-Cruelty Law¹⁰ provided extensive protection to ‘any living creature’ regarding acts classified as a misdemeanor. This general legal protection was lacking in the case of children, even if the abused Mary Ellen was as troubled and intimidated as a small animal.

Given this approach and in the absence of other official possibilities, Etta Angell Wheeler turned to Henry Bergh, the president of the animal welfare organization, informing him about Mary Ellen’s situation. Although Bergh participated in the proceedings as a citizen, he had greater opportunities as the president of the organization. Having gained the support of the media, the case eventually made it to the front pages of the newspapers. During the proceedings, the fact of cruel treatment and neglect and the omissions and bad decisions of the authorities was established. Apparently, the NY Department of Public Charities and Correction’s decision on the placement of the child was illegal, as it was based only on the statement of the then-husband, Thomas McDormick, about being the child’s biological father, without proper documentation of the relationship or adequate supervision of the child.

As a result of the lawsuit, which became the focus of interest in the newspapers,¹¹ the attitude of the public changed, and, in 1874, the New York Society for the Prevention of Cruelty to Children¹² was founded as the world’s first child protective agency. Next to Mr. Bergh, the co-founders were Elbridge Thomas Gerry, who, as the legal counsel of ASPCA, helped in the case of Mary Ellen. The society, financed by the Quaker philanthropist, John D. Wright, aimed to develop children’s rights and give protection to high-risk and abused children, making efforts to prevent child abuse and neglect with education or with the strengthening of parental skills.

Child rescue movements based on the doctrine of ‘*parens patriae*’ played a prominent role in the USA in laying the foundation for the development of juvenile criminal justice. Thanks to these movements, after the practice of houses of refuge and of the reform schools, the first juvenile court was created in Chicago, in 1899.

On the other hand, in Europe, the acceptance of the tenets of the “mediation school” – particularly associated with the name of Franz von Liszt – creates the principle basis for special criminal law reactions against to youth offenders.

The ‘*parens patriae*’ theory had a very strong influence on the first criminal regulations against children. The Juvenile Court Act made it possible for the court to act not only in the cases of delinquent, but also dependent and neglected children, or if the child demonstrated antisocial behavior¹³.

9 1821 Me. Laws 5.

10 Favre and Tsang, 1997.

11 See Shelman and Lazoritz, 2005.

12 New York Society for the Prevention of Cruelty to Children, 2022.

13 Lévy, 2009, p. 180.

1.2. Changing social vulnerability, strengthening children's rights

Social sensitivity toward the situation of children has undergone a long development in modern history,¹⁴ from taking action against the most flagrant, cruel treatment of children to paying attention to psychological disadvantages.

In the beginning, society's general perception allowed such behavior against children, which nowadays qualifies as physical or sexual abuse. Corporal punishment was a generally accepted means of education, which was appropriate for parents and a wide range of adults. Sexual activity during childhood was not considered harmful; in some cultures (e.g., ancient Rome or Greece), sexually immature or barely mature young boys were taught intellectually and sexually and their teachers were the respected, knowledgeable men of the community.

Finally, with the change in public thinking, society detected and punished harsher forms of abuse and serious cases of child beating. For example, in 1655, in Massachusetts, a master abused his 12-year-old apprentice, who died. In this special case, the offender was found guilty of maltreatment.¹⁵

Physical abuse was constantly at the center of public attention, and the state has developed various solutions to benefit child victims. However, they did not guarantee the actual protection of children. In the first part of the 19th century, in the cases of parents' maltreatment, neglect, or harsh abuse, young victims were apprenticed to a master, who had the right to use corporal (physical) punishments against apprentices. The other solution was that these children were placed in an almshouse or poorhouse, which was also a gathering place for poor and delinquent children. It was a common practice for the authorities to place street children under the age of 15 in these institutions if they begged and were vagrants or convicted of a crime or other disturbances.¹⁶ The change in society's sensibilities accelerated significantly in the 20th century.

As a first step, society recognized the importance of physical abuse and neglect and confronted forms of emotional abuse and its consequences. It affected criminal law regulations (e.g., prohibiting mental neglect) and the functioning of institutional systems. The importance and harmful effects of rejection, scapegoating, and more serious forms of emotional deprivation were stated, which also affected the everyday practice of the institutions. Society was also constantly developing, slowly understanding the extremely vulnerable situation of sexually abused children and the serious consequences of sexual abuse.

In the last stage of development among professionals and public opinion, the perception that loving care and the resulting emotional security are essential for the development of a healthy personality became increasingly common, ensuring that it is primarily, though not exclusively, the responsibility of parents.

14 Csemáné Váradi, 2007, pp. 210–211.

15 Watkins, 1990, p. 500.

16 Watkins, 1995, p. 500.

1.3. The history of the declaration of children's rights

In 1924, the General Assembly of the League of Nations adopted a declaration for more effective protection of the situation of the child.¹⁷ This step was initiated by the 'International Union for the Help of Children.' The Geneva Declaration of the Rights of the Child laid down five important principles. Although the declaration was not based on government responsibility, as is clear from the basic idea of 'it calls on humanity to do everything in the interests of the child,' it is a serious step in the history of children's rights. Among the principles, the last two deserve to be highlighted to illustrate the specific spirit of the declaration. Principle 4 notes that the child must be put in a position to earn a living and be protected against all exploitation. Principle 5 draws attention to the fact that the child must be brought up with the awareness that they will put their best abilities at the service of their fellow human beings.

The next significant document was created at the 1959 UN General Assembly. The Declaration on the Rights of the Child¹⁸ represents a different understanding, and its wording shows a more decisive action. Proponents of the document call on governments to recognize and ensure children's rights through appropriate legislative measures. The number of principles has also been further expanded. Principle 7 establishes the child's right to education to prepare them for their future career. Principle 9 prohibits child labor if the child cannot be employed before reaching the appropriate minimum age. Principle 10 notes that the States Parties must raise the child with the awareness of putting their best abilities at the service of their fellow men. Further, education must occur in the spirit of friendship and peace between people.

The rights of the child are defined, with a general argument, in several documents on human rights. Thus, certain aspects of the child's situation are affected by the International Covenant on Civil and Political Rights¹⁹ (8th act of 1976) or the International Covenant on Economic, Social, and Cultural Rights²⁰ (9th act of 1976). However, the documents contain provisions governing children and declaring the additional rights of children in this area, such as the 1949 Geneva Convention on the Protection of the Civilian Persons and Population in Time of War,²¹ which considers the need for the

17 League of Nations, 1924.

18 United Nation General Assembly, 1959. Until May 7 2022 only USA and Somalia didn't ratify the declaration.

19 The Covenant was adopted by the United Nations General Assembly on December 16, 1966, and entered into force on March 23, 1976. By May of 2012, the Covenant had been ratified by 167 states.

20 The Covenant entered into force in 1976, and, by May 2012, it had been ratified by 160 countries. The International Covenant on Economic, Social, and Cultural Rights (1966), together with the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), make up the International Bill of Human Rights. In accordance with the Universal Declaration, the Covenants recognize that '... the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights'.

21 Protection of Civilian Persons and Populations in Time of War.

special protection of children, or humanitarian law during its further development. Two protocols were adopted in 1977 to supplement the Geneva Conventions, requiring increased protection for children in the case of international and non-international armed conflicts.

1.4. The Rights of the Child—The New York Convention

The birth of the New York Convention on the 'Rights of the Child'²² (CRC) can be considered the most significant result. According to the Convention, every child has the right to

- equality regardless of race, color, gender, religion, or origin (Article 2 – without discrimination);
- special protection for the sake of healthy mental, physical and spiritual development (Article 4 – protection of rights);
- grow up in a family and not be separated from his parents. If the child so desires, he has the right to maintain contact with both parents (Article 5 – parental guidance);
- proper nutrition, health care, and have a roof over your head;
- special care, if disabled;
- love, understanding, and protection;
- free education, play, and rest;
- be among the first to receive help in the event of a disaster;
- be protected against neglect, cruelty, and exploitation;
- without discrimination, in love, be brought up in the spirit of peace and tolerance.

The Central and East-Central European (CEE) countries are parties to the Convention, the related reports²³ of which are a continuous control for the enforcement of children's rights within criminal law regulations. Thus, several articles have special importance in connection with criminal law in every CEE country²⁴.

The Convention defines a child as someone between the age group 0–18 and uses it with general validity. Article 1 CRC (definition of the child): 'Everyone under the age of 18 has all the rights in the Convention.' Meanwhile, a different terminology appears in the criminological and criminal law, and in the juvenile criminal law literature of the region. From the victim's side, the concept of a minor is decisive, including children under the age of 18. The concept of a child typically means a young person under the age of 14, while a juvenile typically refers to the 14–18 age group. Other age limits also play a role in each country, primarily depending on national regulations (e.g., 12, 16 years).

22 United Nation General Assembly, 1959.

23 Committee on the Rights of the Child according to the Article 43 of CRC.

24 CRC was ratified at 1990 by Romania, at 1991 by Poland and Hungary, at 1992 by Slovenia, Croatia, at 1993 by Slovakia and Czech Republic, at 2001 by Serbia.

In certain countries, beyond age, intellectual and mental maturity can play a role as a condition for criminal liability.

2. Children's rights and criminal law: International documents as a common framework

The connection between criminal law and children's rights is two-fold: protection against attacks on children requires special measures, as does their appearance as perpetrators. The connection between the two phenomena is close; thus, the national regulations affect the issue with a correspondingly different weight. The quality and effectiveness of the intervention are important in both cases: children who experience child abuse and neglect, given ineffective child protection, criminal law solutions, and lack of protection are approximately nine times more likely to become involved in criminal activity²⁵.

2.1. Child and juvenile victims in the system of documents prohibiting specific forms of crime

Several forms of crime are known, the victims of which are primarily, or in most cases, children and juveniles. Countless international documents²⁶ have been created to prevent such acts and the victimization of young people. Thus, the Stockholm Declaration and Action Plan, the Yokohama Resolution, the Council of Europe Recommendation No. 16/2001 on the protection against sexual exploitation of children, and the Cybercrime Convention²⁷ are related to the sexual exploitation of children.

Children and young people as victims of domestic violence are protected, for example, by the recommendations of the Committee of Ministers of the Council of Europe on the protection of children against ill-treatment²⁸, domestic violence²⁹, or witness intimidation, and on their right to defense³⁰.

Other documents are noteworthy, despite their low importance in the CEE countries. Thus, the 1999 convention of the International Labor Organization prohibits child labor; all forms of slavery or practices similar to it, such as the sale, trading, and debt settlement of children or forced labor; using the child to perform illegal activities, such as prostitution or making pornographic products; and types of work that justify this by their nature or circumstances, such as work that endanger the health, safety, and moral development of the child (e.g., their use in mines and gold panning).

25 See Lévy, 2016; Lévy, 2019.

26 Lévy, 1989.

27 ETS 185/2001.

28 R(79)17.

29 R(85)4.

30 R(97)13.

However, the children of some CEE countries are exposed to increased danger, such as child trafficking and forced prostitution. Among the many international resolutions and guidelines on human trafficking, the Recommendation of the Ministers of the Council of Europe regarding child and young victims of sexual abuse, pornography, prostitution, and human trafficking should be highlighted: the supervision of marriage agencies and organizations dealing with adoptions is necessary to prevent child prostitution or other sexual exploitation of children and young people either abroad or domestically; the authorities, especially the police, must closely monitor the departure and arrival of children, especially if they are not with their parents or guardians; and child and youth victims of human trafficking must be given increased protection and supported by all means.

Meanwhile, the noted international recommendation on the protection of children against sexual abuse is also an important document in this context. It advocates for the widest possible use of the flow of information and clarification, mainly to draw attention to dangerous situations that can lead to the development of organized crime against children, especially girls; increased awareness of child trafficking and the sexual exploitation of children by all bodies that can do something about it (e.g., employees of foreign representation bodies, the media, non-governmental organizations); attracting the attention of the media and highlighting its role in the prevention of child trafficking; and addressing the topic of child trafficking and the sexual exploitation of children as part of school studies, as such information may help protect children in the outside world as well.

2.2. Juvenile justice system

The common characteristics of the international source materials on the subject³¹ are that, among the options that can be taken in response to a crime, they argue for the primacy of alternative sanctions, diversion, and reparation, and see any form of deprivation of liberty as a last resort. Among the UN documents on child and juvenile offenders, we can single out the Beijing Rules,³² the New York Convention,³³ and the Riyadh Guidelines,³⁴ given their importance. They favor the priority of alternative sanctions, community punishments, and diversion, referring to custodial sanctions and other forms of deprivation of liberty (e.g., pre-trial detention) only exceptionally, in specific cases, and in connection with an application under strict conditions.

The documents of the Council of Europe³⁵ reflect a similar spirit when, for example, regarding the definition of a comprehensive social response to juvenile crime, they note that the juvenile criminal justice system is only part of the fight against youth crime. Accordingly, when criminal justice is used as a tool, the goal is reintegration,

31 Csemáné Váradi, 2008, pp. 11–21; Csemáné Váradi, 2010, pp. 152–163.

32 United Nation General Assembly, 1985.

33 United Nations General Assembly, 1989.

34 United Nation General Assembly, 1990a.

35 Council of Europe, Committee of Ministers, 1988.

the method of which is education. Other documents [e.g., Council of Europe R(88)6³⁶, Rec(2000)20]³⁷ also touch on this issue. Although ET Recommendation No. R20(2003)³⁸ on action against juvenile delinquency and the role of the criminal justice system refers more strongly to the importance of quick, early, and consistent response, it clearly states that ‘the juvenile justice system should be understood as a component of a broader, community-based strategy that takes into account the wider family, school, residential and peer group contexts within which crime occurs.’³⁹

That is, the intervention must be such that it provides the opportunity for the victims and affected community to participate in this process and even creates an opportunity to restore the disturbed social peace and balance regarding the affected community. Accordingly, classic criminal law intervention should target serious crimes, violent crimes, drug- and alcohol-related crimes, and juvenile offenders who regularly commit crimes. However, even in this context, the document emphatically states that ‘the member states must develop a wider spectrum of new and more effective (but in accordance with the requirement of proportionality) alternative sanctions and measures for serious, violent, and repeated juvenile delinquency... involve the parents of the offender ... and, where possible and appropriate, provide for mediation, restitution, and restitution to the victim.’⁴⁰ From the cited provisions of the document, a special approach to custodial sanctions and other forms of deprivation of liberty is justified; special attention and clearly and precisely defined provisions are required during their application. Most of the documents provide the rules of implementation tangentially or in more detail.

The specific execution method of deprivation of liberty is, therefore, decisive; this issue is affected by both the Tokyo⁴¹ and Havana Rules.⁴² According to the provisions designed to protect juveniles deprived of their freedom, to facilitate their release and integration into society, institutions must be established that are most similar to the ‘outside world,’ where security measures can be reduced to the minimum level. These decentralized, smaller institutes that facilitate contact between the juvenile and their family and are integrated into the social, economic, and cultural environment of the community may help reach the goals.

36 Ibid.

37 Council of Europe, Committee of Ministers, 2000.

38 Council of Europe, Committee of Ministers, 2003.

39 Council of Europe, Committee of Ministers, 2003, II 2: The juvenile justice system should be seen as one component in a broader, community-based strategy for preventing juvenile delinquency, that takes account of the wider family, school, neighbourhood and peer group context within which offending occurs.

40 Council of Europe, Committee of Ministers, 2003, III 8: To address serious, violent, and persistent juvenile offending, member states should develop a broader spectrum of innovative and more effective (but still proportional) community sanctions and measures. They should directly address offending behaviour and the needs of the offender. They should also involve the offender’s parents or other legal guardian (unless it is considered counter-productive), and, where possible and appropriate, deliver mediation, restoration, and reparation to the victim.

41 United Nations Standard Minimum Rules for Non-custodial Measures.

42 United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

The Council of Europe recommendation,⁴³ examining new ways of addressing juvenile crime and the role of the criminal justice system, contains guidelines for the criminal justice system for juveniles and the conditions and practice of its application but not for the specific implementation of individual legal consequences (punishments, measures). Meanwhile, in the field of treating serious, violent, and repeated juvenile delinquency, the document addresses the need for intervention on criminological factors that cause or directly contribute to delinquency and targeting the risk of repeated delinquency (e.g., antisocial attitudes, drug consumption, low-level of knowledge, school failure, and parental neglect).

The reintegration of the young person after release can be made possible by stronger family involvement in the process. Family decision-making group conferences, which are still held in penitentiary institutions, have good experience in this area. At the European Union (EU) level, the opinions that consider it necessary to expand the scope of alternative conflict management options and apply new models, with particular attention to certain violations and groups of perpetrators, have also strengthened (it was embodied in Directive 2012/29/EU, addressing the establishment of minimum standards for the rights, support, and protection of victims of crime and the replacement of Framework Decision 2001/220/IB). In the proposal of the Commission acting during the preparation of the Directive⁴⁴, it is noted in detail that 'restorative justice services encompass a range of services... include for example, victim-offender mediation, family group conferences and adjudication circles'⁴⁵.

The 'Greifswald Rules'⁴⁶ contain special provisions for juvenile offenders to strengthen and support their rights and safety, subject to social sanctions and measures or any form of restriction of freedom, and promote their physical, mental, and social well-being. The recommendation applies to juveniles (i.e., persons under the age of 18) and young adults (i.e., persons between the ages of 18 and 21), regardless of whether they have committed a crime or show 'only' antisocial behavior within the scope of civil law. According to III, which deals with the execution of deprivation of liberty, certain provisions of Part 1 apply to the execution of (custodial) punishments for juveniles and other forms of deprivation of liberty, be it in the field of child protection or health care, regardless of their final or temporary nature (e.g., pre-trial detention or other temporary deprivation of liberty measures).

The execution of the sentence reintegrates juvenile prisoners into society, which requires a diverse range of measures. As juveniles deprived of their liberty are particularly vulnerable, authorities must ensure the protection of their physical and mental integrity and well-being. Mediation or other restorative measures should be encouraged at all levels of addressing juvenile offenders. Although it approaches the

43 Council of Europe. Recommendation Rec(2003)20 of the Committee of Ministers to Member States concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

44 Article 11.

45 European Commission, 2011.

46 Council of Europe, Committee of Ministers, 2008.

issue from a different angle, this direction is strengthened by the EU's new children's rights strategy, 'Child-friendly justice.'

Since the entry into force of the Convention on the Rights of the Child, it has been declared in countless forms: the fact that the protection of the interests of the child is declared at the legal level does not necessarily mean that a state completely fulfills its obligations in the document. It will depend on the specific implementation of the given legal institution. This notion is supported by the jurisprudence of the European Court of Human Rights. In 1999, in cases brought against the United Kingdom, it was expected that in the proceedings against a child offender 'full consideration should be given to the child's age, maturity, and mental and emotional development, and [the child] should be encouraged to understand the proceedings and actually participate in it.'⁴⁷ In this case, while the appropriate training of professionals can yield a positive shift, the similarly marked critical expectations regarding assigned guardianship institutions require other responses.

The previous document (Toward an EU Strategy on the Rights of the Child)⁴⁸ aimed to develop a comprehensive strategy to promote and ensure the enforcement of children's rights in all internal and external actions of the European Union and support Member States' efforts in this area. Although the Council of Europe did not have a children's rights agenda until 2006,⁴⁹ there were separate initiatives. Examples include the Warsaw summit, where an action plan was adopted in 2005, or the 28th conference of European Ministers of Justice in Lanzarote in 2007.

Finally, the 'Stockholm Strategy'⁵⁰ of the Council of Europe was announced between the years 2009 and 2011. The document notes that, similar to all other areas, the general principles of the Convention on the Rights of the Child are applicable in the field of justice regarding appropriate treatment. They ensure the protection of children's rights. The best interest of children is a primary aspect that must influence any legislative, administrative, or judicial decision.⁵¹ It is an important requirement to involve children and consider their opinions when making decisions that affect them. Thus, the Council of Europe must especially promote the implementation of child-friendly national justice systems by developing European guidelines.

One of the most recent documents on the topic at the EU level was the 2011–2014 Strategy of the EU, Child-friendly justice. The first document in connection with this subject was the 'Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly justice'⁵², adopted at 17 November 2010. The name highlights the importance of enforcing children's rights in the field of justice. Accordingly, everything from legal representation to participation, protection, mediation, or the special training of professionals addressing children (judges, prosecutors) must be

47 Hammarberg, 2013, p. 15.

48 European Commission, 2006.

49 Daneghian-Bossler, 2013, p. 209.

50 Council of Europe, 2009.

51 Herczog, 2013, pp. 201–204.

52 Council of Europe, 2011.

investigated. Hence, how does the child's best interest appear in the regulations and in everyday operations?

Increasingly, the EU strategy also shows decisively the need that is expressed in the real enforcement of children's rights within the justice system. Thus, training⁵³ is particularly vital, whether for members of the justice system or other professionals. Beyond the fact that it creates an opportunity to get to know the most important questions and techniques of child psychology and communication with children, given the exchange of experiences and different professional approaches, there is an opportunity for joint thinking and case analysis that is multidisciplinary in terms of methodology and interdisciplinary in terms of results.

One of the first strategies, the Council of Europe's Children's Rights Strategy,⁵⁴ was adopted in February 2012 to assist in the interpretation of international standards at the member state level while promoting a range of child-friendly services and systems. Further, the Strategy designated the elimination of all forms of violence against children, the protection of the rights of children in vulnerable situations, and the promotion of their participation as additional tasks.

3. Historical roots, common theoretical background

Looking back at the development of criminal justice for juveniles, in contrast to the history of criminal law, it does not have a very long history. It appeared in most European countries only in the 20th century and can be dated to the beginning of the 20s. There are several reasons for this relatively short history. First, the approach that defined youth as an independent group with specific social problems had to gain ground in public thinking. However, it had to be preceded by the development of other social sciences and a shift in research in that direction, primarily sociology, educational sciences, pedagogy, psychology, and especially criminology.

How great an impact they had (and still have) on legal and political thinking can be easily traced in the development of criminal legislation regarding juveniles. The turning point occurred because the legal policy began to treat the affected juveniles as persons at risk from an educational perspective, with deficiencies in this respect. It possessed substantive legal and procedural legal consequences. After all, the goal of the justice system was to eliminate the juvenile's educational shortcomings, a task that is challenging to limit in advance regarding its duration. Hence, the use of various measures that were relatively indefinite in time, primarily involving deprivation of liberty, could become accepted, regardless of whether they were conducted in a correctional institution or penitentiary. The relatively indefinite nature was shown in the fact that their duration depended on the success of the education. We have

53 Tuite, 2013, p. 208.

54 Daneghian-Bossler, 2013, pp. 210–213.

encountered this situation in the regulations of several countries, such as Germany; in fact, it existed in the Scandinavian states and England (with borstals) until the beginning of the 80s. The inclusion of the juvenile judge as a quasi ‘substitute father’ represented the procedural aspect of everything, especially in the legal systems of welfare states.

From the beginning of the 80s, a very significant change took place in legal policy, the basis of which was created by the results of recent criminological research. Accordingly, juvenile delinquency was characterized by its episodic nature and the dominance of petty crimes, and, usually, there were no deficiencies in education (i.e., in this context, the necessity of state intervention could also be questioned). This notion was supported by the findings of the latency studies concerning juveniles. According to the basic premise⁵⁵ of the ubiquity of juvenile crime, among minor crimes against property and wealth, juvenile delinquency can be considered a normal phenomenon because, regardless of the juvenile’s upbringing, family, social, and social situation, and the economic and cultural characteristics of the given country, it is a uniformly occurring phenomenon everywhere. If we consider the findings of follow-up investigations, premature criminal law intervention, especially involving deprivation of liberty, hinders or prevents the socialization of juveniles rather than helping it. The follow-up studies⁵⁶ made it obvious that the norm-violating lifestyle becomes a relatively well-defined life stage, which usually ends with entry into adulthood, even following the life course of multiple and intensive offenders. That is, it becomes just an episode in the young person’s life and socialization.

Principles of juvenile criminal justice, such as subsidiarity or the *ultima ratio* nature of prison sentences, were based on these items. The low weight of the acts, their episodic nature, their degree of danger to society, and the apparent redundancy of intervention directly induced the establishment of the legal institution of diversion from the traditional criminal law path. Diversion makes it possible to avoid or reduce state intervention while mobilizing the educational power of the juvenile’s microenvironment and involving other areas of law (e.g., child protection, labor policy, social policy, and local community policy) in prevention, thereby promoting the expansion of their toolkit.

Ultimately, given these processes and basic principles, a differentiated and multi-level system of legal consequences regarding the strength of the intervention was created in the criminal law of juveniles in Western Europe, within which priority is always given to measures involving smaller interventions. As per empirical studies conducted throughout Europe on sanctions, the view that the various sanctions are interchangeable, replaceable, and represent an alternative for the law enforcer has become generally accepted.⁵⁷

55 Kaiser, 1996, p. 392.

56 See e. g. Kerner, 1993.

57 Albrecht, Dünkler and Spieß, 1981, pp. 310–326.

Both theory (either in the field of criminology or sociology of law) and practical research support and recognize the advantages of individual legal consequences in the field of individual prevention over other legal consequences, such as the diversion of formal convictions,⁵⁸ certain outpatient measures belonging to youth protection (including the guilty-victim agreement and public service work)⁵⁹ relative to confinement or similar sanctions,⁶⁰ and probation relative to a suspended prison sentence.⁶¹ The priority of legal consequences that do not involve intervention is based on the increased pressure the juvenile offender feels given the expectations of him. In the relationship between the norm-breaker and society, the young person receives a 'moral credit' from society as a one-sided gesture, anticipating his later positive behavior, which obliges him to act as a norm-follower.

At the level of criminology theory, the *raison d'être* of diversion was based on the premise of the 'labeling approach,' which proves the stigmatizing nature of the effects on youth during the formal criminal justice system (procedure, punishment, and execution). This effect can be eliminated by diversion. Criminology theory is essential in the creation of the offender-victim agreement as a possible diversionary tool. In the 1950s, it became obvious that the perpetrators accept the fact of committing a crime with various neutralization techniques, and the victim and the effect of their act on the victim are completely sidelined.

Meanwhile, if, within the framework of the mediation procedure, they are forced to face the victim as a person and the damage and suffering they have caused, it is an experience they cannot turn off, even with their neutralization techniques, which entails a potential norm violation. The situation will be present as a factor influencing their decision. Moreover, the criminology theory brought with it the demand and necessity for the creation of other diversionary devices, primarily related to leisure activities. Juvenile crime is closely related to the problems and opportunities of young people regarding how they spend their free time. Therefore, if we show them how else they can spend their free time, and if we outline how to get to various opportunities offered by society and the state and where to turn, we can expand their range of possibilities. The noted measures (e.g., the obligation to participate in a social training course or some other 'experiential pedagogic' measure) serve this purpose beyond removing the young person from the official process.

Of course, the perpetrators of more serious crimes, mainly of a violent nature, require legal consequences that represent a stronger intervention. Emphasis must be placed partly on the most forceful forms of measures and partly on sanctions involving deprivation of liberty, especially considering that violent crime among juveniles is increasing throughout Europe.

58 Dünkel, 1990, p. 436.

59 Dünkel, 1990, p. 553.

60 Schumann, 1985.

61 Dünkel and Spieß, 1992, pp. 117–138.

4. Main characteristics of juvenile justice in Central and East-Central European Countries in the 2000's

In Central and East-Central Europe, the need to reform criminal law appeared primarily through the political need to comply with the principles declared by the UN and the Council of Europe. It was only made more powerful by the changes in the political-economic system that occurred at different times but, to some extent, in each country, bringing with it the necessity of reforming the criminal law of juveniles. The reform became urgent because (somewhat uniformly from the middle and end of the 1980s) juvenile delinquency reached unprecedented levels. Although the individual states uniformly recognized the inevitability of these tasks, serious differences can be found in their actual solutions.

In some countries, such as Croatia, Slovakia, the Czech Republic, Russia, or the Baltic states, the development of an independent justice system for juveniles has come to the fore. It was necessarily related to the development of procedural law structures required by the rule of law, where special educational principles important for juveniles must be considered.

Meanwhile, in Bulgaria,⁶² for instance, there were reservations about the organization of juvenile justice, especially regarding the adoption of independent criminal law rules for them. Instead, they saw prevention primarily within the framework of child and youth protection. It was also a general phenomenon that, beyond the ambulatory educational measures, the different forms of diversion from the traditional route have been made. The restorative justice legal institutions construction was considered necessary and inevitable, and the various strict punishments associated with the deprivation of liberty were considered equally important, primarily regarding juvenile recidivists and perpetrators of violent crimes. The reasons are also similar in almost all the countries examined:

- It was considered one of the important tools of general prevention.
- It was also important from the perspective of reassuring the population dissatisfied with the level of juvenile crime and the efficiency and rigor of the justice system.
- Many places lacked the appropriate infrastructure for the application of ambulatory measures.
- Doubt and resentment characterized the profession (primarily, those working in the justice system) and public opinion.

The situation has induced the use of custodial sanctions almost as often as before. Even so, the high rate of juvenile crime and the seemingly intractable problem did not induce a return to the previous system of sanctions applicable to young people. A good example was Russia, where, despite the high juvenile crime rate, the proportion of

62 Margaritova, 2010.

probation and suspended prison sentences exceeded the number of prison sentences to be carried out.

Detention centers with a shock effect, such as the old German solution (detention of juveniles) or the English 'detention center,' can be found in some countries. Thus, while Estonia, for example, was experiencing its renaissance, in Croatia, a young person could be locked up in such disciplinary centers for three months.

Increasingly many countries exert efforts to reduce the length of prison sentences, which are traditionally considered long, especially for juveniles. (Thus, according to Croatian law, the upper limit of the sentence was five years, exceptionally 10 years, as in German law.) The missing infrastructure is a serious problem. There is a particularly large shortage of professionally qualified social workers and social pedagogues. The main reason for this and other problems, especially the development of youth protection at an adequate level, is the lack of money.

It would probably help to change the way of thinking of the public and authorities and even make it easier to raise funds for reforms and introduce and generalize victim-offender agreements if the judicial system's hitherto aloof behavior were to change with the experiments of the kind conducted (like, for example, in Germany). Thus, everyone will see and monitor how this institution conducts examinations in practice, and the results can become obvious to everyone.

5. Conclusion

Although Mary Ellen's fate had a good turn (she lived a full life, became a children's teacher, businesswoman, and finally died surrounded by her grandchildren at the age of 92), still *today*, many children in similar situation aren't that lucky. The USA National Child Maltreatment Statistics⁶³ report about 3.9 million child maltreatment in 2020, and 90.6% are victimized by one or both parents. Child abuse reports involved 7.1 million children, but less than 50% (3.1 million children) received prevention and post-response services. Among the unlawful behavior is physical (17.5%) and sexual (9.3%) abuse and psychological maltreatment (6.1%), and neglect (74.9%). Children in early childhood are at the highest risk: 67.8% of all child fatalities were younger than 3 years old. In the USA alone, thousands of children die from abuse and neglect annually (e.g., 1750 children in 2020).

Many years have passed since the case of Mary Ellen Wilson, and although we have moved into the era of information society and industry 5.0, the protection of children is still an unsolved problem – and not only in the USA, but in the CEECs too, as the Committee on the Rights of the Child regularly reports. The lack of access to justice, communication problems, symbolic legal protection, incomplete functioning of the signaling system, institutional violence... are many obstacles that also affect the countries of the region.

63 Child Maltreatment Statistics, 2020.

The connecting points of the countries' regulations are the specific nature of the legal field, the social importance of children and juveniles, and the common historical and ideological framework. Many international documents regulating the field of law have similar solutions and a common theoretical basis. The differences between the individual countries are, thus, less important and can be perceived more in connection with some basic issues like the minimum age of criminality, the independence of the regulation, or the structure of the institutional system.

The directions for moving forward are also similar: in addition to the existence of regulations, attention is to be primarily shifted to practical problems, more efficient functioning of the institutional system, and more complete enforcement of children's rights in practice.

In theoretically, in the children's rights, the child, parents (guardians) and the state are treated as equal actors⁶⁴. However, both the state and the parent have a special responsibility for the observance of children's rights. International and national rules protecting rights are very important, but if the unlawful actions remain hidden, the protection of children will not be effective. Sufficient sensitivity, adequate knowledge, and early recognition of problems depend on the adult environment. This is decisive not only from the point of view of becoming a victim, but indirectly also from the point of view of becoming a possible perpetrators. To achieve the effective practice is the direction of the development of the juvenile justice too.

64 See more at Lux, 2018.

Bibliography

- Albrecht, H.-J., Dünkel, F., Spieß, G. (1981) 'Empirische Sanktionsforschung und die Begründbarkeit von Kriminalpolitik', *Monatschrift für Kriminologie*, 1981(64), pp. 310–326.
- Csemáné Váradi, E. (2007) 'Gondolatok a kiskorúak büntetőjogi védelme körében' in Csemáné Váradi, E., Farkas, Á., Nagy, A., Róth, E., Sántha, F. (eds.) *Tanulmányok Dr. Dr. hc. Horváth Tibor Professzor Emeritus 80. születésnapja tiszteletére*. Miskolc: Bíbor Kiadó, pp. 203–227.
- Csemáné Váradi, E. (2008) 'A nemzetközi szabályozás új irányai a fiatalkorúak szabadságelvonnása körében', *Büntetőjogi Kodifikáció*, 8(2), pp. 11–21.
- Csemáné Váradi, E. (2010) 'A fiatalkorúak büntető-igazságszolgáltatása: reformelképzelések', *Kriminológiai Közlemények*, 2010(68), pp. 152–162.
- Csemáné Váradi, E. (2019) 'A gyermek- és fiatalkori kriminalitás' in Borbíró, A., Gönczöl, K., Kerecsi, K., Lévy, M. (eds.) *Kriminológia*. Budapest: Wolter Kluwers, pp. 631–665.
- Daneghian-Bossler, L. (2013) 'Az Európa Tanács, mint a gyermekbarát igazságszolgáltatás motorja' in Lux, Á. (ed.) *Gyermekek központú igazságszolgáltatás. AJB füzetek*, 2013/1, pp. 210–213.
- Dünkel, F. (1990) *Freiheitsentzug für junge Rechtsbrecher. Situation und Reform von Jugendstrafe, Jugendstrafvollzug, Jugendarrest und Untersuchungshaft in der Bundesrepublik Deutschland und im internationalen Vergleich*. Bonn: Forum Verlag Godesberg.
- Dünkel, F., Spieß, G. (1992) 'Perspektiven der Strafaussetzung zur Bewährung und Bewährungshilfe im zukünftigen deutschen Strafrecht', *Bewährungshilfe*, 1992(39), pp. 117–138.
- Favre, D., Tsang, V. (1997) 'The Development of Anti-cruelty Laws during the 1800's. Appendix A.' in Lockwood, R., Ascione, F. J. (eds.) *Cruelty to Animals and Interpersonal Violence: Readings in Research and Application*. Indiana: Purdue University Press, pp. 64–66.
- Hammarberg, T. (2013) 'A gyermekközponitú igazságszolgáltatásról' in Lux, Á. (ed.) *Gyermekek közponitú igazságszolgáltatás. AJB füzetek*, 2013/1, pp. 13–16.
- Herczog, M. (2013) 'Összefoglaló az ENSZ Gyermekjogi Bizottságának 2012. évi munkájáról' in Lux, Á. (ed.) *Gyermekek közponitú igazságszolgáltatás. AJB füzetek*, 2013/1, pp. 201–204.
- Humphreys, W. H. (2015) *Reports of Cases Argued and Determined in the Supreme Court of Tennessee, During the Years 1839 [To 1851]*. Nashville: J. George Harris.
- Kerner, H.-J. (1993) 'Jugendkriminalität zwischen Massenerscheinung und krimineller Karriere' in Nickolai, W., Reindl, R. (eds.) *Sozialarbeit und Kriminalpolitik*. Freiburg im Breigau: MPI, pp. 28–62.

- Lévai, M. (1989) 'A fiatakorúak igazságszolgáltatási rendszerére vonatkozó ENSZ minimum szabályok: a „Pekingi Szabályok”', *Jogtudományi Közlöny*, 44(12), pp. 664–668.
- Lévai, M. (2009) 'A gyermek érdekétől a megérdemelt büntetésig: a fiatakorúakra vonatkozó büntető igazságszolgáltatás alakulása az Amerikai Egyesült Államokban', *OKRI Szemle*, pp. 149–151.
- Lévai, M. (2016) 'Youth Justice in Hungary During the 20th and 21st Centuries' in Oxford Handbooks Editorial Board (ed.) *The Oxford Handbook of Crime and Criminal Justice* (Online edition). Oxford Academic. Available at: <https://doi.org/10.1093/oxfordhb/9780199935383.013.69> (Accessed: 13 October 2022).
- Lévai, M. (2019) 'A fiatakorúak büntetőpolitikája' in Borbíró, A., Gönczöl, K., Kerezi, K., Lévai, M. (eds.) *Kriminológia*. 2nd edn. Budapest: Wolters Kluwer Hungary, pp. 887–913.
- Lux, Á. (2018) *A gyermekjogi mozgalom fejlődése és az európai független gyermekjogi intézmények összehasonlító perspektívában*. PhD Thesis. Budapest: ELTE.
- Markel, H. (2009) 'Case Shined First Light Abuse of Children', *The New York Times* [Online]. Available at: <https://www.nytimes.com/2009/12/15/health/15abus.html> (Accessed: 13 October 2022).
- Mason, P. T. Jr. (1972) 'Child Abuse and Neglect. Part I: Historical Overview, Legal Matrix, and Social Perspectives.', *North Carolina Law Review*, 50(2), pp. 293–349.
- New York Society for the Prevention of Cruelty to Children (2022) *History of NYSPCC* [Online]. Available at: <https://nyspcc.org/about-nyspcc/history/> (Accessed: 13 October 2022).
- Project C.H.A.N.C.E. (no date) *The Mary Ellen Wilson Child Abuse Case* [Online]. Available at: <http://www.project-chance.org/mary-ellen-wilson.html> (Accessed: 11 May 2022).
- Schumann, K. F. (ed.) (1985) *Jugendarrest und/oder Betreuungsweisung*. Bremen: Universität Bremen.
- Sessar, K. (1984) 'Jugendstrafrechtliche Konsequenzen aus jugendkriminologischer Forschung: Zur Trias von Ubiquität, Nichtregistrierung und Spontanbewährung im Bereich der Jugendkriminalität' in Walter, M., Koop, G. (ed.) *Die Einstellung des Strafverfahrens im Jugendrecht. Chancen und Risiken eines neuen kriminalpolitischen Weges sowie Erfahrungen aus Praxis*. Vechta: Kriminalpädagogischen Verlag, pp. 26–50.
- Shelman, E. A., Lazoritz, S. (2005) *The Mary Ellen Wilson Child Abuse Case and the Beginning of Children's Rights in 19th Century America*. Jefferson, North Carolina and London: McFarland & Company.
- The New York Times (1874) *The Mission of Humanity. Continuation of the Proceedings Instituted by Mr. Bergh on Behalf of the Child, Mary Ellen Wilson* [Online]. Available at: <https://www.nytimes.com/1874/04/11/archives/the-mission-of-humanity-continuation-of-the-proceedings-instituted.html> (Accessed: 13 October 2022).

- Tuite, M. (2013) 'Az Európai Unió tevékenysége a gyermekbarát igazságszolgáltatás vonatkozásában' in Lux, Á. (ed.) *Gyermekek központú igazságszolgáltatás. AJB füzetek*, 2013/1, pp. 205–208.
- Vaskuti, A. (2016) *A nemzetközi dokumentumokban megfogalmazott ajánlások érvényesülése a fiatalok büntető igazságszolgáltatásában*. PhD Thesis. Budapest: ELTE.
- Watkins, S. A. (1990) 'The Mary Ellen Myth: Correcting Child Welfare History', *Social Work*, 35(6), pp. 500–503; <https://doi.org/10.1093/sw/35.6.500>.
- Child Maltreatment Statistics* (2020) [Online]. Available at: <https://americanspcc.org/child-maltreatment-statistics/> (Accessed: 19 September 2022).

Legislation and Jurisdiction

- An Act in Alteration of Chapter Ninety-Five of the Revised Statutes, entitled of „Offences Against Private Property”* [Online]. Available at: <https://www.animallaw.info/statute/vermont-laws-act-34-1846> (Accessed: 13 October 2022).
- Council of Europe (2009) *Building a Europe for and with Children*. Strasbourg: COE.
- Council of Europe (2011) *Guidelines of the Committee of Ministers of the Council of Europe*.
- Council of Europe (2016) *Council of Europe Strategy for the Rights of the Child (2016-2021)*. Strasbourg: COE.
- Council of Europe, Committee of Ministers (1988) *Recommendation No. R (88) 6 of the Committee of Ministers to Member States on Social Reactions to Juvenile Delinquency among Young People Coming From Migrant Families* [Online]. Available at: [http://www.kekidatabank.be/docs/Instrumenten/RvE/1988%20CMRec\(88\)6_on%20social%20reactions%20to%20juvenile%20delinquency%20among%20young%20people%20coming%20from%20migrant%20families.pdf](http://www.kekidatabank.be/docs/Instrumenten/RvE/1988%20CMRec(88)6_on%20social%20reactions%20to%20juvenile%20delinquency%20among%20young%20people%20coming%20from%20migrant%20families.pdf) (Accessed: 13 October 2022).
- Council of Europe, Committee of Ministers (2000) *Recommendation Rec(2000)20 of the Committee of Ministers to Member States on the Role of Early Psychosocial Intervention in the Prevention of Criminality* [Online]. Available at: <https://rm.coe.int/16804f9b17> (Accessed: 13 October 2022).
- Council of Europe, Committee of Ministers (2003) *Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice* [Online]. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=70063> (Accessed: 01 November 2021).
- Council of Europe, Committee of Ministers (2008) *Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures* [Online]. Available at: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1367113&Site=CM> (Accessed: 13 October 2022).
- Council of Europe (2011) *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted by the Committee of Ministers of the Council of Europe on 17 November 2010*, Strasbourg: Council of Europe.

- European Commission (2006) *Towards an EU Strategy on the Rights of the Child* [Online]. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0367:FIN:EN:PDF> (Accessed: 13 October 2022).
- European Commission (2011) *Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (EC) No 2011/0129 (COD)* [Online]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011PC0275> (Accessed: 13 October 2022).
- European Commission (2021) *EU strategy on the rights of the child* [Online]. Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52021DC0142> (Accessed: 13 October 2022).
- European Union (2021) *EU Strategy on the Rights of the Child*. Brussels: European Union.
- Johnson v. State*, 21 Tenn. 283, 2 Hum. 283 (1840) [Online]. Available at: <https://cite.case.law/tenn/21/283/#p284> (Accessed: 13 October 2022).
- League of Nations (1924) *Geneva Declaration of the Rights of the Child* [Online]. Available at: <http://www.un-documents.net/gdrc1924.htm> (Accessed: 13 October 2022).
- Maine: An Act against Sodomy and Bestiality (Historical Law)* [Online]. Available at: <https://www.animallaw.info/statute/maine-act-against-sodomy-and-bestiality> (Accessed: 13 October 2022).
- New York Society for the Prevention of Cruelty to Children (2022) *Mary Ellen's Court Statement* [Online]. Available at: <https://nyspcc.org/about-nyspcc/history/> (Accessed: 13 October 2022).
- Protection of Civilian Persons and Populations in Time of War*. Additional Protocol I, Part IV. (1949) [Online]. Available at: <https://www.icrc.org/en/doc/resources/documents/misc/57jmjv.htm> (Accessed: 13 October 2022).
- Republica v. Teischer*, 1 Dall. 335 (Penn. 1788) [Online]. Available at: <https://www.animallaw.info/case/republic-v-teischer> (Accessed: 13 October 2022).
- UNICEF (2021) *Towards an EU Strategy on the Rights of the Child addressing the challenges of the 21st century* [Online]. Available at: <https://www.unicef.org/eu/media/1356/file/Towards%20an%20EU%20Strategy%20on%20the%20Rights%20of%20the%20Child:Addressing%20the%20challenges%20of%20the%2021st%20century.pdf> (Accessed: 13 October 2022).
- United Nation General Assembly (1959) *Declaration of the Rights of the Child* [Online]. Available at: <https://www.humanium.org/en/convention/text/> (Accessed: 13 October 2022).
- United Nations General Assembly (1966) *The International Covenant on Economic, Social and Cultural Rights* [Online]. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (Accessed: 13 October 2022).
- United Nation General Assembly (1985) *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* [Online]. Available at: http://www.unhchr.ch/html/menu3/b/h_comp48.htm (Accessed: 13 October 2022).

- United Nations General Assembly (1989) *Convention on the Rights of the Child* [Online]. Available at: <https://www.coe.int/en/web/compass/convention-on-the-rights-of-the-child> (Accessed: 13 October 2022).
- United Nation General Assembly (1990a) *United Nations Guidelines for the Prevention of Juvenile Delinquency Child* [Online]. Available at: http://www.unhchr.ch/html/menu3/b/h_comp47.htm (Accessed: 13 October 2022).
- United Nation General Assembly (1990b) *United Nations Standard Minimum Rules for Non-custodial Measures* [Online]. Available at: http://www.unhchr.ch/html/menu3/b/h_comp46.htm (Accessed: 13 October 2022).
- United Nations (1990c) *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* [Online]. Available at: <http://www1.umn.edu/humanrts/instree/jlunrjdl.htm> (Accessed: 13 October 2022).