

Thesis of the PHD dissertation

by

ANDRÁS VASKUTI

APPLICATION OF THE INTERNATIONAL PRINCIPALS  
IN THE  
JUVENILE JUSTICE SYSTEM

SUPERVISED BY  
DR. BÉLA BUSCH  
HABILITATED UNIVERSITY DOCENT

BUDAPEST, 2016

## CHAPTER I

### Summary of the research set

Twenty-five years ago, on 20 November 1989, the UN adopted the Convention on the Rights of the Child<sup>1</sup>. This period is ready to be examined. One of my judgments generated a wide press coverage with the following comment: “This decision took people’s breath away because the judge referred to the UN Convention on the Rights of the Child which states that in case of such young offenders the incarceration shall be the last resort (*ultima ratio*). This recommendation was prepared for the developing countries, where the rate of juvenile offenders is very high and where this is the most appropriate solution to avoid the mass incarceration of juveniles.”<sup>2</sup> In this regard, the next questions and thoughts raise up:

- how deeply are we aware of the content of the international document?
- does its content refer to Hungary as well or only to the less developed countries’ legal system?
- how are the international principals, obligations and recommendations applied in Hungary, namely during the legislation on juvenile offenders and in the judicial practice.

In the first decades of the 21st Century, criminologists, child protection experts, people working in the criminal justice system and juris consults generally agree that the crimes of the juveniles should be judged differently and different treatment should be given to them compared to the adults. The difference among criminology schools emerge because of the nature of the specific regulations.

Using their instruments, the international organizations are trying to devise such norms which in addition to the local attributes may create frames in general level to prevent juvenile crime, to take humane, fair and effective actions against offenders. These actions may contribute to the integration of juveniles into a community and, consequently, it may help the juveniles to become a valuable member of that community.

---

<sup>1</sup> UNCRC, The United Nations Convention on the Rights of the Child

<sup>2</sup> Magyar Nemzet - Halálos ítéés, 2009. december 21.

In this dissertation I am trying to find the answer to the questions of what kind of regulations the international norms contain and how they apply either in the domestic legislation or in legal practice. In my examination I focus on international documents related to the juvenile offenders, including specific substantive and procedural legal issues, which succeed disquietingly in the domestic legislation and practice. However, the law on enforcement of penal sanctions is not part of my essay.

Regarding the application of Article 40 of the Convention on the Rights of the Child, I asked the following questions:<sup>3</sup>

1. Should there be a separate codex for juveniles?
2. Is there a need for juvenile courts?
3. Are the age limits appropriate or do we need to change them?
4. Is the principle of procedural openness and the responsibility of the media applied?
5. Is the sanction system appropriate? Is it suitable for the individualization and for the enforcement of the educational aims?

In my essay I am looking into all of these questions. After the conceptual definitions regarding the ages I draw up the evolution of the juvenile justice in Hungary and the international documents concern with juvenile offenders and I formulate the possible consequences which could be drawn. Finally, in a separate chapter, I examine the international norms, the European solutions, the Hungarian former regulation and the regulation in force regarding to the above mentioned five questions. By collating and evaluating these factors I try to draw up suggestions for the legislation and law practice.

---

<sup>3</sup> Vaskuti András: A New York-i Gyermekjogi Egyezmény 37. és 40. Cikkének érvényesülése a kiskorúak büntető igazságszolgáltatásában, *Jog és Állam* 14., Károli Gáspár Református Egyetem ÁJK, 2010, 48. oldal

## CHAPTER II

### BRIEF ON THE COMPLETED SURVEYS AND ANALYSIS, METHODS OF THE PROCESSING

Since the international regulations, domestic norms and different branches of law or even the press, the public and the laic legislators (e.g. politicians) attribute different meanings to the same word, it is essential to lay down the definitions applied by the author, namely the notion of a

- child;
- minor;
- juvenile;
- young adult.

To apply a unified definition-system the colorful cavalcade of the age related regulations and terminologies can be summarized as follows:

	Hungarian	International documents
minor	child under 14	child under 18
	juvenile 12 - 14 years, above 14, under 18 years	juvenile the minimum age is flexible –18 years
young adult	according to the criminal court practice 18 - 21	young adult 18 - 21
adult	above 18 years	adult above 18 years

From the chart above it can be concluded that the designation “child” in the international documents is mostly similar to “infant” or “minor” in the Hungarian law. This conclusion seems to be correct even if we take into account that a child can exceptionally be regarded as an adult before reaching of his / her 18 years. In addition, the Hungarian criminal substantive law considers the minor offender as a passive subject (offended) instead of an offender.

According to the reasoning of the new Btk. (Act C of 2012 on Criminal Code) “the act follows the half a century old Hungarian tradition whereas the criminal law regulations for

juveniles are contained by a separate chapter of the unified criminal code instead of creating a totally separate codex.”

The question whether this solution complies with the international norms is examined in the fifth chapter of the dissertation. However, before everything else, we need to review besides last fifty years those important elements in the past, through which we reached the law in force.

Major milestones:

year	
1878	definition of the minimum age of criminal responsibility by law (codex) establishing houses of correction
1908	definition of „juvenile” by law
1913	juvenile court
1945	people’s jurisdiction, death penalty
1947	metropolitan tribunal for juveniles
1951	unified (substantive and procedural) regulation
1961	raising the minimum age of criminal responsibility to 14 years
1962	courts with exclusive competence
1995	postponement of charge corrective training as a fixed-term measure and is counted into the pretrial detention
2003	modification of the probation supervision
2007	active repentance
2012	termination of exclusive competence
2013	lowering the minimum age of criminal responsibility to 12 years
2015	preventive patronage

Summarizing the evolution of the regulation on juvenile offenders in Hungary the following statements can be taken:

- In Hungary there is a tradition of the unified regulation to juveniles, however was present in a short interim period; the typical, specific solution is the collocation of the special norms in the substantive and procedural codex;
- In Hungary there is a tradition of the special courts, however this existed only for a short time (Budapest-capital Regional Court of Appeal: for juveniles). Nonetheless, the juvenile arbitration panel and juvenile judge or the courts with exclusive competence in juvenile arbitration had been working for a long time (for almost a century since 1913 to 2012 -);
- The age limit regulations have been differed, the minimum age was varying between 12 and 14 years, while the maximum age was 18 years all the time; the young adult age was not regulated in a code;

- the procedures are public as a general rule but it can be closed to a great extent, however the protection of privacy is not effective;
- the most popular sanction in the judicial practice is the probation, however almost all of the crimes are threatened with incarceration in case of juveniles as well.

During the '80s of the last century, international organizations, communities and their specialized bodies directed their attention to the questions of juvenile crimes and thus they prepared numerous obligations and recommendations for crime prevention, treatments to the juvenile offenders and for the execution of sentences. In this context many documents were prepared, which - by building on each other - create an international background material, which contains standpoints and notions worth to incorporate in the national law.

Nevertheless, several other international treaties, conventions affect directly as well as indirectly the juveniles.

Hungary is a member of UN since 14 December of 1955, it joined the European Council on 6 November of 1990, moreover, the accession to the European Union took place on 1<sup>st</sup> of May 2004. This certainly means the recognition of the fundamental intentions of these national and supranational bodies. Furthermore, Hungary accepts and supports the values articulated and protected by the mentioned organizations, and strives to apply and adopt their norms in the domestic legal system. These bodies primarily<sup>4</sup> accept recommendations, suggestions and therefore beside of their incorporation to the member states' legal systems, it carries a great possibility to preserve the historically and culturally evolved national traditions, while alloying the national and international norms.

There are numerous possible ways to classify the international documents, like

- general human rights or judicature;
- it refers to children or juveniles;
- it refers to victims or offenders;
- overruled or effective;
- international, including European;
- obligatory or recommended;

---

<sup>4</sup> Exceptionally they can adopt enforceable law (e.g. Convention on the Rights of the Child),

- according to the issuing organization
  - UN
  - EU
  - European Council
  - international NGO (non-governmental organization).

In my essay I focus on the documents, which refer to the juvenile offenders, the jurisdiction and the criminal substantive and procedural law. I do not deal with the execution of sentences but I survey the documents thematically (focusing on specific questions, introduced in separate chapters). Finally, I introduce some documents prepared by international NGOs since the application of them may help the modernization of juvenile justice.

For my dissertation and I have collected, translated and used the following international documents:

A/RES/40/33, United Nations Standard Minimum Rules for the administration of Juvenile Justice – The Beijing Rules
Recommendation No. R (87) 20 On social reactions to juvenile delinquency
Convention on the Rights of the Child
A/RES/45/112, United Nations Guidelines for the Prevention of Juvenile delinquency – The Riyadh Guidelines United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
A/RES/45/113, United Nations Rules for the Protection of juveniles deprived of their liberty – La Havana Guidelines
European Convention on the exercise of children’s rights
1997/30. Administration of juvenile justice, „Vienna justice system” ECOSOC Res Model law on juvenile justice
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
2006/C 110/13, Opinion of the European economic and social committee on the prevention of juvenile delinquency. Ways of dealing with juvenile delinquency and the role of the juvenile justice system in the European Union
MJU-28 (2007) Resol.2 on child-friendly justice
CRC/C/GC/10, General Comment No. 10, Children’s rights in juvenile justice
Towards an EU Strategy on the Rights of the Child
Guidance Note of the Secretary-General - UN approach to justice for children
CM/Rec (2008) 11 European Rules for juvenile offenders subject to sanctions or measures
Strategy for „Building a Europa for and with children” Stockholm Strategy 2009-2011
A/RES/63/241 – Rights of the child ECOSOC Res/2009/26 Supporting national and international efforts for child justice reform, in particular through improved coordination in technical assistance
Resolution of the Council on a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings
Salvador Declaration
Extracts of the Report of the 12th United Nations Congress
Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice
COM (2011) 60 final, An EU agenda for the Rights of the Child
Council of Europe Strategy for the Rights of the Child

(2012-2015)

---

MJU-31 (2012) Resol. E.

on responses of Justice to urban violence, adopted by the 31st Council of Europe Conference of the European Ministers of Justice 2012. September 21

---

Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings

---

Strategy on the Rights of the Child for 2012-2015 Information document Dubrovnik

---

Resolution 2010 (2014)

Provisional version

---

Child-friendly juvenile justice: from rhetoric to reality

---

Declaration of Leuven on the advisability of promoting the restorative approach to juvenile crime

---

Lima Declaration on Restorative Juvenile Justice. The First World Congress on Restorative Juvenile Justice

---

Proposal for principles of judicial ethics for youth and family judges and magistrates

---

Juvenile Delinquency-Child Friendly Justice, Structures and Processes for Prevention and Intervention

During the survey and analysis, I came to the conclusion that the appropriate adaptation of the international obligations and recommendations mostly succeeded in Hungary, however in some areas the Hungarian solutions are questionable (contradictory with the international recommendations in some cases). These called focus-questions are contained by Chapter 5 - 9.

### **CHAPTER III**

#### **SUMMARY OF THE ACADEMIC ACHIEVEMENTS, THEIR UTILIZATION AND THE WAYS OF UTILIZATION**

##### **1) CONSIDERING THE SPECIAL LAWS AND PROCEDURES**

Point 2.3 of the Beijing Rules says that every national judicial system must strive to produce a collective of acts, regulations and stipulations to juvenile offenders, by which the performance of the tasks of the juvenile justice can be achieved. Its further goal is

- to satisfy the different needs of the juvenile offenders and protect their rights;
- to satisfy the needs of the society.

The related commentary emphasizes the necessity of the specific national legislation.

The emphasis of the related commentary is on the necessity of the specific national legislation.

In accordance with Point 3 of Article 40 of the UN Convention on the Rights of the Child the member states shall support the adoption of special laws and procedures and encourage themselves to establish authorities and institutions for suspected, accused or convicted juveniles.

According to Point 52 of the Riyad guidelines, the governments must strive to adopt special laws and procedures, which are appropriate to protect the rights of juveniles and ensure their wealth.

No such conclusion can be deducted from the international norms that states should adopt separate acts for the special regulations of the juveniles.

However, the UN sample-act points in this direction and compared it with the guidelines of the juvenile justice (with a drafting, which is understandable for children) we may get to the conclusion that a separate codex on juvenile criminal justice would be justified.

The question, whether the juvenile criminal justice would be chapter of a general act or be totally separate codex, is not merely technical issue but it reflects an explicit point of view and approach. In the first case I approach the juveniles from the point of view of an adult. I examine the key points, where I intend to illustrate the differences. In the other case however, I disregard the right of the adults and I look at the system, the child's action, his / her environment and the reasons of his / her behavior from the angle of a child. I look into the ways how I can link the substantive, procedural and executive criminal law to the methods of child protection, education and integration to the community, in order to prevent child from the criminal career and instead, he becomes a law obeying, decent citizen.

In other words, we do not focus on how the act of the juveniles should be different from the act of the adults but we focus on what kind of act should be drafted for the juveniles.

We are simply unable to give right answers separately since these questions are closely related to each other. If we accepted a system level the principles implied in international norms and the international experience then we may find the right answer.

## 2.) JUVENILE COURTS

Regarding the police, the Beijing Rules contain the following obligation: “In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.” (point

12.1.). According to the commentary “As police are the first point of contact with the juvenile justice system, it is most important that they act in an informed and appropriate. While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth.”

Point 14.1 of the Beijing Rules is talking about “competent authorities”, including courts, tribunals, judges, panels, officers and authority bodies (referring to the Scandinavian and Scottish system), which can deliver judgment in juvenile cases.

According to point 3 of Article 40 of the UN Convention on the Rights of the Child, member states shall encourage with their best effort the ratification of special acts and procedures and the establishment of authorities and institutions for children, who are accused or condemned. Due to commentary No.10 to the Convention, member states have a lot to do in order to establish a proper, well-functioning juvenile justice system. It is emphasizing the need for well-trained, special units in the police, the prosecutor’s office and in the courts. For those, who are working in this special trainings area the teaching of the principles, stipulations of the Convention and other regulations or guidelines of the UN must be provided.

Point 14/D of the Guideline for Action on Children in the Criminal Justice System (1997/30) of the Economic and Social Council of UN is clearly articulated to the member states to establish juvenile courts with primary jurisdiction over crime committed juveniles and they have to create special procedures, which has regard to the special needs and interests of juveniles. As an alternative, ordinary courts must apply these procedures as well.

Due to point 63 of the guidelines on juvenile justice system, as far as possible expert courts (or panels), procedures and institutions must be established for the children who have conflict with criminal law. This also means that it is a possibility to establish specialized units inside the police, the justice system, the judiciary and the prosecution system.” The attached commentary explains (point 125) that juvenile courts or at least juvenile panels should be established a special units for the committed crimes by children. Also specialized units should be established within the law enforcement authorities in accordance with the specialization obligation. You can see the guidelines of the Council of Europe containing this as a recommendation. In the explanation they specify the different formalities of the juvenile courts, referring to the rigor that should be softened compared to adult courts. For example,

legal experts should avoid using wig and gowns, the juvenile offender shall not seat in a separate, special place (dock), instead, he / she might seat next to the social worker or to his / her lawyer. Hearings must be conducted with minimized possibility for children to feel themselves threatened and obstructed.

In Hungary, the juvenile criminal justice system has changed as follows:

period	court	place in the judicial system
1913 -	juvenile court	royal tribunals royal district courts
1945 -	public court	
1947 – 1952	juvenile metropolitan tribunal	separate, special court
1952 -1962	Budapest central district court, assigned district courts, county courts	not separate court
1962 – 1973	assigned district courts, county courts	not separate court
1973 – 2011	district courts with exclusive competence, Central District Court of Pest, county courts	not separate court
2011 -	all of the district and county courts (tribunals)	

My suggestions:

- juvenile courts should be restored or organized;
- juvenile court may hear the following cases:
  - o crimes committed by juveniles
  - o delinquencies committed by juveniles
  - o committed crimes committed by young adult offenders
  - o mixed cases (committed by juveniles and adults) if the criminal responsibility could be decided in a single procedure (changes should be taken to the joinder practice)
  - o crimes committed against children
  - o juvenile related investigative judge procedures
  - o juvenile related penal procedures
- juvenile courts should be organized with adjusting them to the seats of the tribunals and their jurisdiction would cover the area of the tribunals;
- one member of the panel of the juvenile court (assessor) should be a teacher, the other a child protection specialist and the genders (male, female) should be present equally;
- the presence of an assigned judge would be obligatory in appeal procedures;

- where juvenile court cases would be decided at first instance by district courts, the court of second instance is a tribunal and where the first instance is a tribunal the second instance would be the court of appeal;
- chairman of the OBH (National Judicial Office) – by an invitation to tender – may assign such judge, who is properly qualified and has to attend continuous trainings as a juvenile judge;
- the juvenile court may hold the hearing at the court being competent according to the location of the crime scene instead of its seat;
- juvenile courts may avoid the use of gowns and other formalities, the accused would seat next to his / her lawyer or legal representative and the participants of the procedure may remain seated during the hearings;
- public must be excluded from the hearings, during the annunciation of the judgment no picture or video could be recorded from the juvenile victims, offenders and their relatives and no information or data would be public, by which they could be identified.

There is no constitutional obstacle against establishing juvenile courts. According to paragraph (4) of Article 25 of the Constitution of Hungary “the judicial system is a multilevel system. Specialized courts can be established for specific group of cases.”

There is no need for the special courts to have new buildings or recruit more personnel thus consequently it is not a financial issue. The decision is in the hand of the legislative power and this would be a significant decision, which could mean that the continuation of the national-historical tradition in harmony with modern international / European theories.

### 3.) AGE LIMITS

Due to point 3.a) of Article 40 of the UN Convention, member states shall do their best to determine such minimum age limit, under which the criminal responsibility is excluded.

According to the Commentary 10, the member states must determine the minimum age of criminal responsibility, under which age no charges could be raised and the young offender shall not be held responsible before a criminal court. The Committee emphasizes that an age-limit under 12 years could not be internationally accepted as the minimum age. The Committee suggests that the member states should consider the 12 years as an absolute minimum age and if it is possible, upraise the minimum age-limit. None of the member states

are entitled to determine lower minimum age to 12 years. The Committee suggested that if the minimum age is determined it could not approve an exception and the Committee also articulated its concern about the states, which let the minimum age be decreased in case of serious crimes.<sup>5</sup>

Minimum age of criminal responsibility from Csemegi-codex until today.

1878. évi IV. törvény	12 years
1908. évi XXXVI. törvénycikk	
1950. évi II. törvény (Btá)	
1951. évi 34. törvényerejű rendelet	
1961. évi V. törvény	14 years
1978. évi IV. törvény	
2012. C. törvény	12 years

Basic questions of the topic:

- where should the minimum age limit be determined?
- is the intellectual-moral development of a child needed to be examined and if yes, in what way?
- where should the maximum age limit be determined?
- what kind of treatment would be expedient regarding the young adults?

Demarcation of moral responsibility and mental ability

moral responsibility		mental ability
	indict ability obstacle	
	always examined between 12-14 years (in case of 5 crimes)	
it must be examined over 14 years, if necessary		it cannot be examined over 14 years
mental illness		mentally health status
levels		no levels
it can be differ during the procedure		it can only be extended during the procedure; it can be lost only in connection with the moral responsibility

Further criticism regarding the age regulations:

<sup>5</sup> CRC/C/GC/10, 16.

- I agree with the sectoral definition of the criminal responsibility but I disagree with the possibility to use deprivation of liberty punishment on children below 14 years.
- The new code holds juveniles responsible for crimes, which is difficult for them to interpret (e.g. despoilment, mixed delinquent behaviors).
- The age pattern of the offenders in the house of correction is differing from the previous 14-19 to 12-21 years, which could cause difficulties during the execution.
- Additional age limits could be important and as I indicated, special regulations to young adults remain neglected.
- Mental ability shall be examined with all juveniles.

#### 4.) PROCEDURE IN OPEN SESSION, RESPECT FOR PRIVACY

Sub-point vii of Point 2 of Article 40 of UN Convention prescribes to have a child's privacy fully respected at all stages of the proceedings. The attached commentary 10 determines that "all stages of the proceedings" includes in the initial contact with law enforcement (e.g. a request for information and identification) up until the final decision by a competent authority, or release from supervision, custody or deprivation of liberty. By virtue of this "no information shall be published that may lead to the identification of a child offender because of the effect of stigmatization, and the possible impact on his/her ability to have access to education, work, housing or to be safe. Furthermore, the right to privacy also means that the records of child offenders should be kept strictly confidential and closed to third parties except for those directly involved in the investigation and adjudication, and the ruling on, the case. With a view to avoiding stigmatization and/or prejudgements, records of child offenders should not be use in adult proceedings in subsequent cases involving the same offender or to enhance such future sentencing."

Today the criminal justice, the media or the internet is unable to guarantee a protection for juveniles of their privacy and this is the area, where the obligations of the international documents are hardly prevailed.

The following recommendations can be drawn up for the legislation and the legal practice:

- no information can be disclosed during the investigation, by which the offender could be identified;
- court hearings must be held with closed doors as a main rule;

- prohibition on the disclosure of the offender's name on the hearing list;
- the legal representative (or his / her lawyer too) of the accused juvenile who makes media coverage to the juvenile in connection with the allegedly committed crime should be held responsible for such action;
- sanctioning every internet supplier or editorial for the disclosure of a shot on a juvenile offender or of his / her name or personal data.

#### 5.) DEPRIVATION OF LIBERTY

One of the most important obligations from the international documents is that the deprivation of liberty shall be

- the very last resort to use and
- lasted for the shortest possible period.

During the preparation of the essay I collected the Hungarian and European prison-statistics and incorporated them in a comparison chart.

As a sanction, deprivation of liberty shows an increasing tendency in Hungary and the new Criminal Code instituted such more sanctions or their extension (lengthening the time spent in a house of correction and widening the age limit accordingly). All of this coupled with the activity of the non-specialized legal practitioner projects the further decrease of these indicators, which would result a bigger gap between the requirements of the international norms and the national solutions.

## Prison-statistics in a European comparison

country	prison population	ratio of the population <sup>6</sup>	population	Juvenile's ration in prison population	capacity utilization	date
Hungary	18 239	184	9.9 millions	2,8%	144,9%	2013.9.30
Albania	5 201	181	2.87 millions	2.0%	99.3%	2013.1.1
Andorra	49	56	87,600	0.0%	26.4%	2013.1.1
England and Wales	85 582	149	57.36 millions	0,9%	112,6%	2014.3.31
Austria	8 273	98	8.48 millions	1,6%	95,6%	2013.1.1
Belgium	11 769	105	11.24 millions	0,7%	122,7%	2014.3.1
Bosnia-Herzegovina	1 883	80	2.35 millions	0,2%	102.1%	2013.1.1
Cyprus	930	108	864,600	0,6%	140,1%	2012.9.1
Czech Republic	17 491	166	10.53 millions	0,8%	84.9%	2014.5.28
Denmark	4 091	73	5.61 millions	0,2%	98.6%	2013.9.1
North-Ireland	1 867	101	1,84 millions	0,0%	89,7%	2014.6.30
Estonia	3 129	239	1.31 millions	1,2%	92.0%	2014.5.26
Belorussia	31 700	335	9.45 millions	0,7%	96.8%	2012.10.1
Finland	3 134	58	5.43 millions	0,2%	96,9%	2013.1.1
France	68 859	103	66.8 millions	1,1%	119,4%	2014.4.1
Gibraltar	63	210	30,000	0,0%	73,9	2012.12.31
Greece	13 147	120	11.00 millions	4,7%	136,5%	2013. 12.
The Netherlands	12 638	75	16.82 millions	1,5%	77,0%	2013.9.30
Croatia	4 741	108	4.38 millions	1,6%	125.7%	2013.1.1
Ireland	3 990	87	4.6 millions	0,4%	95,5%	2014.3.31
Island	152	47	321,400	0,6%	93,3%	2013.9.1
Kosovo	1 695	93	1.83 millions	2,2%	84,8%	2013.11.15
Poland	78 959	205	38.53 millions	0,4%	91,5%	2014.6.30
Latvia	5 280	264	2.0 millions	1,1%	76,8%	2013.1.1
Liechtenstein	7	19	36,800	0,0%	35,0%	2012.12.31
Lithuania	9 509	322	2.95 millions	1,2%	103.5%	2013.9.1
Luxemburg	717	131	546,700	0,7%	100.8%	2013.9.1
Macedonia	3 021	147	2.06 millions	0,8%	131,9%	2013.12.01.
Malta	566	134	423,750	1,1%	133,6%	2013.08.01.
Monaco	29	79	36,500	10,3%	35.8%	2013.09.01.
Montenegro	1 068	171	623,600	0,3%	97,1%	2013.09.01.
Germany	62 632	78	80.7 millions	2,8%	81.8%	2013.11.30
Norway	3 649	72	5.1 millions	0,1%	96,0%	2013.9.1
Italy	58 092	97	60.12 millions	0,7%	117,5%	2013.6.30
Russia	676 400	471	143,7 millions	0,9%	83,6%	2014.5.1
Portugal	14 445	139	10.4 millions	0,5%	116.3%	2014.7.1
Romania	32 172	162	19.91 millions	1,1%	110.3%	2014.7.1
San Marino	0	0	32,500	0,0%	0,0%	2012.9.1
Scotland	7 812	146	5.34 millions	0,7%	103,7%	2014.5.23
Spain	66 892	144	46.37 millions	0.0% <sup>7</sup>	88.0%	2014.6.27
Switzerland	7 072	87	8.1 millions	0,4%	100.3%	2013.9.4
Sweden	5 797	60	9.61 millions	0,2%	86.3%	2013.10.1
Serbia	10 226	142	7.21 millions	0,7%	158.5%	2012.12.31
Slovakia	10 156	187	5.42 millions	1.3%	89.9%	2014.6.30
Slovenia	1 357	66	2.06 millions	0,7%	104.9%	2013.9.1
Turkey	151 047	196	76.98 millions	1.1%	89.4%	2014.6.30

<sup>6</sup> per 100.000 population<sup>7</sup> (Spain): under 18 - 0,0%, under 21 - 1,7%

Ukraine	115 769	257	45.1 millions	0.7%	120.4%	2014.6.1
---------	---------	-----	---------------	------	--------	----------

Considering the ratio of the population the following countries lag behind Hungary in Europe: Estonia, Belorussia, Poland, Latvia, Lithuania and Russia.

Considering the ratio of the juveniles, only Greece and Monaco are behind Hungary.

#### Development of the Hungarian indicators

year	inmates	ratio per 100,000 citizen
1992	15.913	153
1995	12.455	121
1998	14.366	140
2001	17.275	170
2004	16.543	164
2007	14.353	143
2010	16.328	163
2013	18.239	184

\*\*\*\*\*

With reference to the five focus-questions examined in the essay, I would draw up the following statements:

- Hungary is a member of a small group, where is no separate act with regard to the criminal juvenile justice;
- Hungary is a member of a minority in Europe, where no juvenile court exists;
- Hungary is one of those European countries, where the minimum age of criminal responsibility is the lowest and there are no special rules on young adults;
- In Hungary the legal environment does not protect the personal rights of the juvenile offenders thus the right for privacy;
- Hungary is a member of a minority group in Europe, where the ratio of the incarcerated juveniles in the population is the highest.

Furthermore, generally speaking, the following recommendations can be made:

- a unified terminology should be applied in each branch of law (childhood, juvenile, young adult, minor, adult);
- there is a need for translating and making available the international sources, documents, guidelines and recommendations;

- the effective laws / institutions should be revised from an angle of how these correspond to the international conventions or minimum requirements;
- preparation of separate (special) acts should be considered;
- establishing separate juvenile courts and until it would happens, ordering extraordinary procedure by law;
- definition of the legal term “young adult” in the criminal law norms (substantive, procedural and penal).

It seems to be generally reasonable to dissolve the strict borders between child protection and judicial systems, whose first step might be taken in the area of preventive parole. The great example for the first step could be if one of the assessors of a juvenile panel would be a child protection specialist.

Previously I referred to my opinion that not just some elements of the juvenile criminal judicial system should be changed but the whole. Hereby, I recommend a possible – according to my consideration: optimal – system of age/responsibility/delinquency/sanctions to be reformed:

<b>AGE</b>	<b>RESPONSIBILITY</b>	<b>DELINQUENCY</b>	<b>SANCTION</b>
12 - 14 years	Serious crimes	without establishing delinquency	soft sanctions without the deprivation of liberty
14-16	violent crimes against person and crimes against property	possible declaration of delinquency	special measures, deprivation of liberty is exceptional
16-18	Special Section of Criminal Code (except the crimes that can be committed only by adults, the majority of economic crimes and the military crimes)	declaration of delinquency in case of penalty	special measures, special penalties
18-21	the entire Special Section of Criminal Code	declaration of delinquency	measures, penalties, with the application of the extenuating paragraph.

**CHAPTER IV****LIST OF THE PUBLICATIONS ON THE TOPIC OF THE PRESENT ESSAY**

Vaskuti András

Az életkor jelentősége az új Büntető Törvénykönyvben

In: Varga Zoltán (szerk.)

A jogegység szolgálatában: Kónya István ünnepi kötet. Budapest: HVG-ORAC Lap- és Könyvkiadó, 2014. pp. 219-234.

Vaskuti András

A fiatalok büntető igazságszolgáltatásának aktuális kérdései

In: Virág György (szerk.)

OKRI Szemle, 2. kötet. Budapest: OKRI-KJK, 2012. pp. 164-175.

Vaskuti András

A bűncselekményt elkövető gyermekek a médiában

In: Gabos Erika (szerk.)

A média hatása a gyermekekre és fiatalokra VI.: Balatonalmádi, 2011. 418 p.

Konferencia helye, ideje: Balatonalmádi, Magyarország, 2011.09.26-2011.09.28. Budapest: Nemzetközi Gyermekmentő

Szolgálat Magyar Egyesület, 2012. pp. 171-175.

(Kobak könyvsorozat, ISSN 1219-7734; 8.)

(ISBN:978-963-08-3034-8)

Vaskuti András

A New York-i Gyermekjogi Egyezmény 37. és 40. Cikkének érvényesülése a kiskorúak büntető igazságszolgáltatásában

In: Domokos Andrea et al (szerk.)

Jog és állam 14.: Jogász doktoranduszok országos szakmai találkozója - Konferencia 2009. november 25.. 156 p.

Budapest: Károli Gáspár Református Egyetem Állam- és Jogtudományi Kara, 2010. pp. 45-53.

(ISBN:963-9808-22-5)

Vaskuti András

A fiatalok büntető igazságszolgáltatása: reformelképzelések

In: - (szerk.)

Kriminológiai Közlemények 68. Budapest: Magyar Kriminológiai Társaság, 2010. p. -.

Vaskuti András

A fiatalokra vonatkozó rendelkezések: 107-127.§

In: Varga Zoltán (szerk.)

A Büntető Törvénykönyv magyarázata I.. 784 p.

Budapest: Complex Kiadó, 2009. pp. 323-390.

(ISBN:963-295-032-7)

Dénes Veronika, Vaskuti András

A fiatalok igazságszolgáltatása; a helyreállító szemlélet perspektívái: 6. 4. fejezet

In: Kerecsi Klára, Borbíró Andrea (szerk.)

A kriminálpolitika és a társadalmi bűnmegelőzés kézikönyve - 2009. 462 p.

Budapest: Igazságügyi és Rendészeti Minisztérium, 2009. pp. 443-461.

I.

(ISBN:978 963 88445 0 7)

Vaskuti András

Életkor és belátási képesség a magyar büntetőjogban - jogalkotási és jogalkalmazási kérdések

In: Both Emőke (szerk.)

Kriminológiai Közlemények 65. Budapest: Magyar Kriminológiai Társaság, 2008. pp. 9-18.

Bogár Péter, Margitán Éva, Vaskuti András

Kiskorúak a büntető igazságszolgáltatásban

Budapest: KJK - Kerszöv, 2005. 230 p.

(ISBN:963-224-764-7)

2004

Vaskuti András

VII. fejezet: A fiatalkorúakra vonatkozó rendelkezések

In: Jakucs Tamás (szerk.)

A Büntető Törvénykönyv magyarázata 1-2 kötet. 1543 p.

Budapest: KJK - Kerszöv, 2004. pp. 220-249.

(ISBN:963-224-820-1)

Vaskuti András

A pártfogó felügyelők szerepe az alternatív szankciók kiválasztásánál

In: Borbíró Andrea, Both Emőke (szerk.)

Kriminológiai Közlemények 62. Budapest: Magyar Kriminológiai Társaság, 2006. pp. 32-36.