



## Collection and analysis of international guidelines/standards relevant to EPPIC

Niels Graf, Heino Stöver

From Frankfurt team’s perspective, international guidelines/standards concerning four issue-areas are relevant to EPPIC: (1) guidelines/standards regarding *juvenile justice and delinquency*, (2) guidelines/standards concerning *imprisonment in general*, (3) guidelines/standards in relation to *health promotion in prisons*, and (4) guidelines/standards concerning *prevention/treatment/harm reduction related to drug use*.

The following overview provides a collection and a summary of the basic principles of the existing international guidelines/standards concerning these thematic areas. Please keep in mind that the vast majority of the collected guidelines/standards consists of legally nonbinding instruments (‘soft law’). Only some guidelines, especially the UN conventions and covenants, constitute ‘hard’ law that carries obligations for — and only for — those states that officially notify their agreement to be bound by them by ratifying or acceding to them. Apart from binding and nonbinding legal instruments, this collection also includes guidelines/standards which do not constitute legal instruments at all, but provide tools for securing the quality and effectiveness of practice-based projects (e.g. the European Drug Prevention Quality Standards – EDPQS).

### (1) Guidelines/standards concerning juvenile justice and delinquency

Table 1: Juvenile justice and delinquency

	Guidelines/standards	Institution	Year	Binding?	Focus on young people
<i>Global guidelines/standards</i>					
1	International Covenant on Civil and Political Rights	UN	1966	✓	X
2	Convention on the Rights of the Child	UN	1989	✓	✓
3	UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)	UN	1985	X	✓
4	UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)	UN	1990	X	✓
5	UN Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines)	UN	1997	X	✓
6	UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime	UN	2005	X	✓
7	General Comment No. 10 on	UN	2007	X	✓

	children's rights in juvenile justice				
8	UN Common Approach to Justice for Children (Guidance Note of the UN Secretary-General)	UN	2008	X	✓
9	Joint Report on Violence against Children on prevention of and responses to violence against children within the juvenile justice system	UN	2012	X	✓
10	Justice in Matters Involving Children in Conflict with the Law: Model Law on Juvenile Justice and Related Commentary	UN	2013	X	✓
<i>European guidelines/standards</i>					
11	Recommendation on social reactions to juvenile delinquency (No. R (87) 20)	Council of Europe	1987	X	✓
12	Recommendation concerning new ways of dealing with juvenile delinquency and the role of juvenile justice (Rec (2003) 20)	Council of Europe	2003	X	✓
13	Recommendation on the European Rules for juvenile offenders subject to sanctions or measures (CM/Rec (2008) 11)	Council of Europe	2008	X	✓
14	Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice	Council of Europe	2010	X	✓

As table 1 shows, international norms concerning juvenile justice and delinquency have existed for several decades. The 1966 International Covenant on Civil and Political Rights (CCPR) and the 1989 Convention on the Rights of the Child constitute the most important international instruments for the administration of juvenile justice in that they are legally binding. Together with a range of non-binding international norms, these instruments set out the following basic principles regarding juvenile justice:

- There is no clear international standard regarding the age at which criminal responsibility can be reasonably imputed to a juvenile. However, juvenile justice legislation should at least cover all those children/juveniles who are over the minimum age of criminal responsibility but under the age of 18.
- The death penalty is prohibited for persons found guilty of a crime committed when they were under the age of 18.
- International human rights instruments require that children should be dealt with in a separate system from adults and detained separately from adults. In case of adults and juveniles alike, persons found guilty and those suspected of a crime should be detained separately as well. Moreover, young female offenders deserve special attention and held separately from males (this also applies to adult prisoners).
- Imprisonment of juveniles should be viewed as a last resort and provided for as short a time as possible. Whenever possible, purely punitive responses to juvenile delinquency should be

avoided and replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an education setting or home. In this vein, juvenile justice should foster integration rather than alienation.

- Hence, juvenile justice institutions should be primarily educational and reformatory in aim rather than punitive. Institutions for children should emphasize education, care and social and welfare support. As such, institutions holding children and/or juveniles should be as prison-unlike as possible.
- Children/juveniles in institutions shall receive all social, psychological and *medical* care necessary for their development (see below for details on medical care).
- Institutions holding children/juveniles should allow as much contact with the outside world as possible, especially with regard to their families.

## (2) Guidelines/standards concerning imprisonment in general

Table 2: Imprisonment in general

	Guidelines/standards	Institution	Year	Binding?	Focus on young people
<i>Global guidelines/standards</i>					
15	Convention on the Rights of the Child	UN	1989	✓	✓
16	International Covenant on Civil and Political Rights	UN	1966	✓	X
17	UN Covenant on Economic, Social and Cultural Rights	UN	1966	✓	X
18	UN Convention against Torture	UN	1984	✓	X
19	UN Convention on the Rights of Persons with Disabilities	UN	2006	✓	X
20	Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)	UN	1990	X	X
21	Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)	UN	1990	X	✓
22	UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment	UN	1998	X	X
23	Human Rights and Prisons. A Pocketbook of International Human Rights Standards for Prison Officials	UN	2005	X	X
24	Handbook on Prisoners with special needs	UN	2009	X	X
25	UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)	UN	2010	X	X
26	Handbook for prison leaders. A basic training tool and curriculum for prison managers based on international standards and norms	UN	2010	X	X

27	Handbook on strategies to reduce overcrowding in prisons	UN	2013	X	X
27	Handbook on Women and Imprisonment	UN	2014	X	X
28	UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)	UN	2015	X	X
29	UN Basic Principles and Guidelines on the right of anyone deprived of their liberty to bring proceedings before a court	UN	2015	X	X
30	Children in Prison (Guidance Note 14)	International Centre for Prison Studies	2004	X	✓
<i>European guidelines/standards</i>					
31	Standard Minimum Rules for the Treatment of Prisoners (Res (73) 5)	Council of Europe	1973	X	X
32	Recommendation concerning prison overcrowding and prison population inflation, (No. R. (99) 22)	Council of Europe	1999	X	X
33	Recommendation on the European Prison Rules (Rec (2006) 2)	Council of Europe	2006	X	✓
34	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126)	Council of Europe	2002	✓	X

There are numerous (binding and nonbinding) guidelines and standards concerning imprisonment in general. Most of these guidelines do not focus explicitly on juveniles, but also apply to them as they cover *all* prisoners. In a nutshell, these guidelines/standards stipulate:

- Prisoners must be treated with respect for their inherent dignity and value as human beings.
- Torture or other ill-treatment is prohibited. Except in cases of self-defence or attempted escape, staff should not use force on prisoners.
- Solitary confinement (isolation) should only be used in exceptional cases, as a last resort, for as short a time as possible, after authorisation by a competent authority, and subject to independent review.
- The purpose of prison is to protect society and reduce reoffending.
- In this vein, prisons should offer education, vocational training, work, and any other assistance needed for the purpose of rehabilitation/resocialisation and reintegration.
- Especially concerning reintegration, prisons should offer opportunities to reintegrate prisoners into the community gradually, such as pre-release schemes or open prisons. Aftercare services should be provided as well.
- Servitude, slavery or requiring prisoners to work for the personal or private benefit of any prison staff is prohibited. Any work should be useful for a prisoner's job prospects after release or be remunerated, and take place in safe and legal conditions.

- Prisoners should be treated according to their needs, without discrimination. Especially regarding prisoners with physical, mental or other disabilities, prisons should make adjustments to accommodate them in order to ensure access to services and programmes on an equitable basis.
- The safety of prisoners, staff, service providers and visitors at all times is paramount.
- Laws or regulations must clearly define what constitutes a disciplinary offence, any sanction must be proportionate to the act, and prisoners must have the opportunity to defend themselves.
- Prisoners should have access to effective legal aid, so that they are able so they are able to effectively participate in legal proceedings. This includes adequate opportunities, time and confidential facilities to meet with their lawyer.
- To enable them to professionally fulfil their duties, prison staff needs continuous training opportunities. Such training should reflect evidence-based best practice, must be provided before and during their employment, and should inter alia include the use of force or working with certain categories of prisoners.
- Prisons should be monitored by independent institutions to ensure that prisons are managed in accordance with the laws and regulations, and for the protection of the rights of prisoners.

### (3) Guidelines/standards concerning health promotion in prisons

Table 3: Health promotion in prisons

	Guidelines/standards	Institution	Year	Binding?	Focus on young people
<i>Global guidelines/standards</i>					
35	The UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	UN	1982	X	X
36	Declaration of Tokyo – guidelines for Physicians Concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment	World Medical Association	1975	X	X
37	Guidelines for Prison, Detention and Other Custodial Settings ('Dual Loyalty Guidelines')	International Dual Loyalty Working Group's	???	X	X
38	WHO guidelines on HIV infection and AIDS in prisons	WHO	1999	X	X
39	WHO Declaration on Prison Health as Part of Public Health	WHO	2003	X	X
40	Improving prisons health care	ICPS	2004	X	X

	(Guidance note 10)				
41	Status Paper on Prisons, Drugs and Harm Reduction	WHO Regional Office for Europe	2005	X	X
42	HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response	UN/WHO	2006	X	X
43	Interventions to address HIV in prisons. Evidence for action technical papers	WHO/UN	2007	X	X
44	Health in Prisons. A WHO Guide to the Essentials in Prison Health	WHO Regional Office for Europe	2007	X	X
45	Interventions to Address HIV in Prisons: Drug Dependence Treatments, Evidence for Action Technical Papers	WHO/UN	2007	X	X
46	Interventions to Address HIV in Prisons: Needle and Syringe Programmes and Decontamination Strategies, Evidence for Action Technical Papers	WHO/UN	2007	X	X
47	Trencin Statement on Prisons and Mental Health	WHO Regional Office for Europe	2008	X	X
48	Drug Dependence Treatment: Interventions for Drug Users in Prison	UN	2008	X	X
49	HIV in Places of Detention: A Toolkit for Policymakers, Programme Managers, Prison Officers and Health Care Providers in Prison Settings	WHO/UN	2008	X	X
50	Women and HIV in prison settings	UN	2008	X	X
51	The Madrid Recommendation: Health protection in prisons as an essential part of public health	WHO Regional Office for Europe	2010	X	X
52	Good governance for prison health in the 21st century. A policy brief on the organization of prison health	UN/WHO	2013	X	X
53	Policy brief: HIV prevention, treatment and care in prisons and other closed settings: a comprehensive package of interventions	UN/ILO/WHO	2013	X	X
54	Prisons and Health	WHO Regional	2014	X	X

		Office for Europe			
<i>European guidelines/standards</i>					
55	Recommendation on a Co-ordinated European Health Policy to Prevent the Spread of AIDS in Prisons (Rec 1080 (1988))	Council of Europe	1988	X	X
56	Recommendation concerning prison and criminological aspects of the control of transmissible diseases including AIDS and related health problems in prison (No. R (93) 6)	Council of Europe	1993	X	X
57	Recommendation concerning the ethical and organizational aspects of health care in prison, (No. R (98) 7)	Council of Europe	1998	X	X
58	Treating drug users in prisons	EMCDDA	2003	X	X
59	Prisons and drugs in Europe	EMCDDA	2012	X	X
60	Strasbourg Conclusions on Prisons and Health	WHO Regional Office for Europe / Council of Europe	2014	X	X

While the documents cited above already include important provisions regarding the health of prisoners,<sup>1</sup> these provisions and principles are laid out in detail in a range of guidelines/standards focusing on prison health. The essence of these guidelines could be circumscribed by the overarching principle “prison health is public health” (i.e. the “principle of equivalence”) and summarized as follows:

- Healthcare provided to detained individuals has to be equivalent to care provided to those in the free world regarding unimpeded access to high-quality healthcare services, including preventive care. These services must be provided with confidentiality and respect for the patient’s autonomy with humanitarian support, professional independence, and professional competence.
- The sole task of healthcare providers in custodial settings is the care for the health and well-being of the inmates, i.e., to provide healthcare with undivided loyalty to the patients, with unrestricted professional independence, acting as the patient’s personal caregiver without becoming involved in any medical actions that are not in the interest of patient health and well-being.
- States, in exercising their responsibility for the health of prisoners, must provide “full clinical independence” for healthcare providers.

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<sup>1</sup> Article 12 of the Covenant on Economic, Social and Cultural Rights for example guarantees “the fundamental right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

(4) **Guidelines/standards concerning prevention/treatment/harm reduction related to drug use**

Table 4: Prevention/treatment/harm reduction related to drug use

	<b>Guidelines/standards</b>	<b>Institution</b>	<b>Year</b>	<b>Binding?</b>	<b>Focus on young people</b>
<i>Global guidelines/standards</i>					
61	Treatnet Training Package	UN	2008	X	X
62	Principles of Drug Dependence Treatment - UNODC/WHO Discussion Paper	UN/WHO	2009	X	X
63	Reducing the adverse health and social consequences of drug abuse: a comprehensive approach	UN	2009	X	X
64	From Coercion to Cohesion: Treating Drug Dependence Through Health Care, Not Punishment	UN	2010	X	X
65	Youth Initiative Discussion Guide	UN	2012	X	✓
66	TREATNET Quality Standards for Drug Dependence Treatment and Care Services	UN	2012	X	X
67	Opioid overdose: preventing and reducing opioid overdose mortality	UN	2013	X	X
68	International Standards on Drug Use Prevention	UN	2013	X	✓
69	Guidelines on Drug Prevention and Treatment for Girls and Women	UN	2016	X	✓ (specifically girls)
70	International Standards for the Treatment of Drug Use Disorders. Draft for Field Testing	UN	2017	X	X
<i>European guidelines/standards</i>					
71	Handbook Prevention: alcohol, drugs and tobacco	Council of Europe	1998	X	X
72	Guidelines for the treatment of drug dependence: a European perspective	EMCDDA	2011	X	X
73	European Drug Prevention Quality Standards (EDPQS)	EMCDDA	2011	X	X
74	Council conclusions on the implementation of the EU Action Plan on Drugs 2013-2016 regarding minimum quality standards in drug demand reduction in the European Union	Council of Europe	2015	X	X
75	Quality Assurance Tool for HIV prevention projects targeting people who inject/use drugs - PIQA	EU	2015	X	X

The identified guidelines/standards concerning prevention/treatment/harm reduction related to drug use do not constitute international 'hard' or 'soft' law, but establish principles which should



ensure the quality (mostly in terms of effectiveness) of projects and programmes aiming at prevention, treatment or harm reduction. The majority of these guidelines do not focus on drug use among young people let alone young people in touch with criminal justice systems. Nevertheless these documents may include important principles which should be considered during the implementation of projects aiming at this target group. The principles laid out in these documents could be summarized as follows:

- Projects/programmes aiming at prevention, treatment or harm reduction should be available, accessible, attractive, and appropriate for needs. In this vein, all barriers that limit their accessibility to appropriate services should be minimized.
- All projects should ensure adherence to ethical standards. They should be based on universal ethical standards – in particular they should reflect respect for human rights and dignity.
- Drug use should be seen primarily as a health problem rather than a criminal behavior and wherever possible, drug users should be treated in the health care system rather than in the criminal justice system.
- Projects should be based on scientific evidence and respond to specific needs of individuals. In this vein, evidence-based practices and accumulated scientific knowledge should guide all interventions.
- Interventions should respond to the needs of special subgroups and conditions. Working with special subgroups requires differentiated and individualized intervention planning that considers unique vulnerabilities and needs.
- Good quality and efficient services require an accountable and effective method of project/programme governance that facilitates the achievement of goals and objectives. Policies, procedures and coordination mechanisms should be defined in advance and clarified to all team members, administration, and target groups.
- All interventions should be constantly monitored and evaluated. This requires planning and implementation of services in a logical, step-by-step sequence that insures the strength of links between (a) policy, (b) needs assessment, (c) planning, (d) implementation of services, (e) monitoring of services (f) evaluation of outcomes and (g) quality improvements.