

Making best use of the 'Technical Note: COVID-19 and Children Deprived of their Liberty'



Case study from the UNICEF
Europe and Central Asia Region

1. Context

Nearly two decades of work in reforming juvenile justice systems in the Europe and Central Asia Region (ECAR) have enabled children in conflict with the law to benefit from policies and approaches that use detention as a last resort and an exceptional measure. Combining high-level commitment from governments and development partners with policy advocacy, legislative reforms, technical support to governments, and introduction and systematic scaling up of alternatives to detention (including diverting children in conflict with the law away from judicial proceedings) has resulted in a significant decline in the rate and overall number of children in detention. In 2000, some 45,000 children in the region were in detention, while by 2020, the number had reduced to 5,000, an almost 90 per cent decline. Consequently, the region did not have a large number of children in detention at the advent of the Coronavirus Disease 2019 (COVID-19) crisis.

2. 'Technical Note: COVID-19 and Children Deprived of their Liberty'

In response to increasing concerns about the protection issues facing children in detention during the COVID-19 crisis, UNICEF Child Protection Headquarters (CPHQ), working in conjunction with the Alliance for Child Protection in Humanitarian Action, convened a global inter-agency taskforce of experts from more than 20 United Nations agencies, non-governmental organizations (NGOs) and academic institutions to develop and publish the Inter-Agency 'Technical Note: COVID-19 and Children Deprived of their Liberty'.¹ The Technical Note was released publicly online on 8 April 2020. It contains recommendations for governments and other detaining authorities on the urgent release of

children, use of alternative measures to detention, preventing new entries of children into detention, and protection measures for children who remain in detention during the COVID-19 pandemic. Following the release of the Technical Note, the UNICEF Executive Director called for the widespread release of children from detention to ease overcrowding of facilities and establish a moratorium on new detentions of children.²

In addition to contributing technical information to the development of the Technical Note, the ECAR regional office shared the Technical Note with all 23³ country offices, urging them to disseminate it with all their partners and use it to engage with their government counterparts on the measures stipulated therein. Country offices were further requested to provide some feedback to the regional office on how the Technical Note was utilized and whether it may have contributed, in one way or another, to the country's response to the pandemic in relation to children who are deprived of their liberty. The idea was to assess its added value.

Sixteen countries responded and shared their experiences on use of the Technical Note. They mentioned that it was timely and provided a strong basis and reference to support their advocacy efforts for the release of children and the protection of those that remained in detention. As of **June 2020**, about **1051** children in five countries⁴ had been released from detention in response to COVID-19. There have been no new entries in places of detention since the outbreak of COVID-19. Where children were not released, measures were put in place to ensure their safety, support and protection. Detailed actions are elaborated in this document.

3. Children in detention in ECAR at the time Technical Note was released

Eight out of 16 countries that provided feedback included data for the number of children in detention at the time, as shown in the Table 1 below.

4. Key actions and results

4.1. Translation and dissemination of the Technical Note

In all countries, the Technical Note was translated into the national or local language and Russian (as applicable) and shared with the Ministry of Justice, Prosecutor General's Office, Ministry of the Interior, detention facilities, educational

Table 1

#	Country	Children in detention			Facility	Managed by
		Boys	Girls	Total		
1	Albania	17			Juvenile detention facility	Ministry of Justice
2	Armenia	11			Penitentiary	Ministry of Justice
3	Azerbaijan	95			Detention centre Pretrial detention centre	Ministry of Justice
4	Bulgaria	130	12	142	Four correctional education boarding schools and one juvenile prison	Ministry of Education Ministry of Justice
5	Croatia	24	4	28	Closed correctional facility	Ministry of Justice
6	Montenegro	6	2	8	The Centre for Children and Youth 'Ljubovic'	Ministry of Labour and Social Welfare
7	Georgia	40		40	Correctional facility	Department of Penitentiary Services
8	North Macedonia	16			Correctional facility	Ministry of Justice

Note: While this information does not cover all countries in the region, it is illustrative of an earlier assertion that the number of children in detention in the region is generally low.

correctional facilities, and other justice sector stakeholders and relevant authorities, including local organizations working with children in contact with the justice system. In the case of **Serbia**, the translated Technical Note was shared with members of the Juvenile Justice Council. The Council is an advisory body with the mandate to initiate and monitor juvenile justice reform through facilitating cross-sectoral dialogue and providing decision makers with recommendations for system reforms. It consists of juvenile justice judges, prosecutors, law attorneys and representatives of ministries in charge of justice, social welfare and the interior.

Meanwhile in **Uzbekistan**, messages based on the recommendations of the Technical Note were developed for the management and staff of closed institutions, including penitentiary institutions and specialized educational correctional institutions for children.

In **Albania, Montenegro, Serbia** and **Ukraine**, the Technical Note was posted on country offices websites for wider dissemination. It should be noted that in addition to the Technical Note, other documents of relevance were also translated and shared. In **Georgia** for example, UNICEF translated and shared with stakeholders the document 'Interim Guidance on the Management of the Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities', which was prepared by the United States Centers for Disease Control and Prevention (CDC).⁵ It was important to translate the guidelines into local languages, since English is not commonly used in most countries in the region. There is higher utilization, acceptance and usability by government authorities when important documents and information are translated into local languages. It is therefore a practice within the region to translate such documents into local languages and/or Russian, where feasible.

4.2. Use of the Technical Note and results achieved

Inspired by the Technical Note, the Juvenile Justice Council in **Serbia** (with UNICEF support) is assessing the conditions in places of detention and how the restrictions imposed have affected the children and young people in these institutions. Overall, children's access to learning in the detention facilities was maintained via television and video. Children also maintained remote communications with their families as lockdown and travel restrictions would not allow parental visits. In addition, UNICEF has started to support an NGO providing counselling to children in educational institutions. The Juvenile Justice Council also issued a press release to inform the public and to remind all professionals of the imperative to deal with each child in the justice system in line with international standards. The statement mentioned the Technical Note as the guide to the Council's actions.

The COVID situation and the response to it rekindled the option of the Ministry of Justice in **Croatia** to introduce video (virtual) visits for the whole penitentiary system. This practice built on a previous programme supported by UNICEF that was related to incarcerated parents and recognized the obstacles to maintaining family relationships in cases of imprisonment.

Thus, UNICEF supported the Ministry of Justice to introduce video visits. Within the programme, information technology equipment was installed in 13 correctional facilities, while rooms in seven facilities were refurbished to create a more child-friendly environment for children visiting their parents. All 23 correctional facilities received materials to inform children and adolescents about the daily life of their parents in prison and alleviate the fears and concerns of children. In total, 800 children benefited from these

interventions in 2019. This model proved to be very effective during the COVID-19 pandemic when visits to prisons were not allowed. The option of video visits was expanded in the penitentiary system and introduced in the new legislation on prison sentences, which passed its first reading in Parliament in April 2020.

In **Albania**, the Technical Note provided additional impetus for UNICEF's advocacy for the protection of children deprived of liberty from COVID-19, the release of children from detention, and maintenance of the monitoring role of the National Human Rights Institutions as regards the conditions and treatment of children in detention. The Technical Note strengthened and reinforced the messaging around release of children from detention and use of alternatives, while pointing out the role that various justice system professionals could play, including referrals to appropriate agencies for information and support. Using the Technical Note, the staff of probation detention facilities and the section on justice for children within the Ministry of Justice took appropriate measures to ensure the safe release and smooth return of released children and their reintegration within their families, as well as ensuring proper care for the children who remained in detention.

The number of children in detention dropped from 24 at the beginning of the pandemic (two convicted and 22 in pre-trial detention, all boys), to 17 (in pre-trial detention, all boys). The judicial review of the cases of these 17 children is still underway and the outcome is not yet known. In all, 150 additional children in conflict with the law benefited from the amnesty that was issued. Seventy children under probation are being followed up remotely by the probation officers.

The country representative in **Albania** sent the Technical Note officially to the Minister of

Justice, Minister of the Interior, the General Prosecutor's Office and the High Council of Justice. The Technical Note was also sent to the National Ombudsperson and the National Bar Association. These institutions distributed the Technical Note to: (1) all district prosecution offices and prosecutors handling cases involving children, with the guidance to avoid as much as possible using custodial measures against child alleged offenders; (2) lawyers specialized in handling criminal cases affecting children, with the guidance to request in court the replacement of custodial with non-custodial measures, particularly for children in pre-trial detention, as provided in the Technical Note; and (3) the People's Advocate, who echoed the Executive Director's press release in their social media and has supported the public call for the release of children in detention, based on the contents of the Technical Note.

It is also worth mentioning that a Deputy Minister of Justice and High Judicial Council member of Albania participated and shared their experiences on keeping courts operational for children and women during the pandemic. Their views featured in the global webinar⁶ organized by UNICEF and the International Association of Youth and Family Judges and Magistrates.

Azerbaijan reported that the Technical Note was well received by partners, particularly the Office of the Ombudsperson, and proved to be a useful tool for advocacy on the rights of children in detention. During the pandemic, 47 children were released from detention in various facilities. Non-custodial measures were affected, and criminal cases were closed for 15 children during this period. The Ombudsperson conducted monitoring visits to the detention centres to ensure that the children were well protected from COVID-19. Risk communication materials produced by UNICEF were distributed to the

children in the detention centres.

The Technical Note served as a guiding resource and framework on standards and principles for use by UNICEF in a joint advocacy initiative with the Ombudsperson Institution (OPI) in **Kosovo** (under United Nations resolution 1244) and a coalition of 30 child protection NGOs and the European Union office in Kosovo. A statement was sent to all the judiciary institutions, the Ministry of Justice, the Cabinet of the President and the Kosovo Assembly calling for immediate action on the possible release and protection of juveniles deprived of their liberty during and post-COVID-19. The statement was shared by OPI and other partners on public and social media and was also posted on the UNICEF website. At the time of writing, no children were known to have been released but the advocacy continues.

While no children have been released in **Bulgaria**, the country office used the Technical Note to advocate with and support the National Ombudsperson's recommendations to the Ministry of Education on measures to ensure the safety of children placed in the four correctional educational boarding schools in the country.

Ukraine used the Technical Note to advocate with the Ministry of Justice, Prosecutor General's Office and the Office of the Ombudsperson. At the time the Technical Note was disseminated, the country office was expecting children in detention would be released within the framework of the nationwide amnesty being prepared. Unfortunately, the amnesty was declined by the Parliament and no children have been released.

Ukraine is the only country that reported on measures to ensure gender-responsive approaches in addressing the COVID-19 emergency in locations where children are deprived of their liberty, including providing for

the special needs of babies and infants deprived of liberty with their mothers, in particular breastfeeding mothers. Ukraine started to develop a comprehensive programme for mothers and pregnant women in detention, with a total of 15 children reported to be with their mothers in detention. Besides COVID-prevention activities, this will include components on early child development, positive parenting and prevention of violence against children.

There is a related positive development in that, as a response to COVID-19 and where possible, the restorative justice programme and services for children in conflict with the law were provided online to avoid any delays in the consideration of cases.

In **Turkey**, UNICEF advocated with the government to release children from detention and ensure adequate care and access to health, and to water, sanitation and hygiene, services for children in state institutions and facilities, in accordance with the Technical Note. Some 800 convicted children were released from prison following the amendment of the Law on Enforcement of Sentences. Online training was conducted on the guidelines with the Union of Turkish Bar Associations to encourage lawyers to apply to courts for immediate release of children under pre-trial detention. UNICEF is partnering with the same association on advocacy, awareness-raising and providing inputs for legislative actions concerning children in detention. The country office is also supporting online skills development for probation officers on various topics, such as psychosocial support, positive parenting, online case management, coping with stress and other topics.

The Prosecutor General's Office in **Uzbekistan** used the Technical Note to make an official request to the Republican Special Commission dealing with the COVID-19 response to facilitate early

conditional release of children from the penitentiary facility. As a result, six boys were released.

Since the COVID-19 outbreak, eight children with adequate family conditions in **Montenegro** were released from the Centre for Children and Youth. Owing to promotion of alternative measures for more than a decade of juvenile justice system reforms, the number of children deprived of their liberty is very low here. At present, eight young people, of whom seven are aged 18 years or above, are serving juvenile prison sentences. The young people have access to COVID-19-related information and have been facilitated to stay in contact with their families remotely. Rehabilitation of young people continues, as per their individual plans, with regular health check-ups. However, requests for early release from prison have not been granted.

The number of children in all closed institutions in **Kyrgyzstan** was reduced at the beginning of the COVID-19 quarantine period. Children who were arrested during the curfew were brought home by police and handed over to their parents or other caretakers. Children in detention could be visited by parents or close relatives if they had recent certification of testing negative for COVID-19.

5. Protecting the health and well-being of children remaining in detention

The Technical Note urges all States to protect the continued health and well-being of children who remain in detention. Children who are not subject to immediate release measures and who are deprived of their liberty during the pandemic should be provided with access to the services they need for their continued health and well-being, including health care, to address COVID-19-related needs without discrimination. While provision of personal protective equipment

(PPE) in places of detention was not a typical regular UNICEF intervention, several country offices responded to the government's request and some initiated provision of PPE in places of detention, since this could easily be overlooked in government responses amidst other priorities. An earlier ECAR survey⁷ showed there was limited availability of PPE for frontline social workers, yet they were expected to respond to emergency cases such as violence against children.

In **Armenia**, UNICEF provided PPE in the form of sterile gloves, masks, disinfectants and alcohol gels. Given the small number of children in detention (11) and few staff at the detention facility, these materials were enough for about one month. After this initial intervention, the government allocated additional funds to the Ministry of Justice to sustain safe practices. In addition, to ensure that children in detention can continue their education, UNICEF supported the Ministry of Justice to procure the materials such as books needed for distance learning and recreation.

In **North Macedonia**, in line with the Technical Note recommendations, UNICEF supported the Ministry of Health in the development of safety protocols for correctional facilities, focusing on the conditions needed to guarantee the protection of children during the outbreak. The protocols cover general measures for prevention and control, use of protective gear, isolation and treatment, among other things.

Through partners and in cooperation with the Ministry of Justice, online psychosocial support is being provided for children in correctional facilities. To ensure the smooth implementation of activities, televisions and laptops have been procured. Protective gear and supplies (including 60 surface disinfectants, 200 antibacterial gels, 3500 face masks and 5000 latex gloves) were delivered to minimize the risk of infections.



Juvenile Detention Center in Kosovo. © Atdhe Mulla

The decision to provide PPE was discussed and agreed with the Ministry of Justice and the management of the detention facilities. Information related to the preventative measures and the use of equipment was communicated by the government in cooperation with UNICEF. Psychologists working in the institutions organized a tutorial for staff and children on the use of masks and other PPE.

Children found on the streets during this crisis are not taken into custody. Other options (usually specialized foster families) are used instead.

In **Albania**, PPE was provided to staff in the detention facility and included intensified disinfection and hygiene measures. The PPE was secured and provided to the juvenile facility by the Ministry of Justice and the General Department of Prisons. The country office continued to monitor the situation of children in the juvenile facility through regular communication with

authorities to get first-hand information on the situation and how the staff and the children were coping with the pandemic and its challenges. Medical personnel in the facility conducted daily medical checks and kept children and staff informed of the measures taken to minimize the spread of the virus. Contact with families has been maintained through telephone and video calls. A toll-free telephone number has been kept active at the juvenile detention facility by the People's Advocate for children to voice their concerns. Children have continued with their classes online.

UNICEF Ukraine received a request from the Criminal Executive Service to provide PPE, disinfectants and training for staff in the penitentiaries. Items provided included 3000 medical masks, 150 respirators, 3000 pairs of medical gloves, 75 pairs of protective glasses, 60 protective cloths, 9 thermometers and cleaning disinfectants. In addition, UNICEF in cooperation

with the NGO Volunteer organized video workshops with staff of the penitentiary facilities.

The staff were instructed by experts on the use of PPE, hygiene requirements, communication with children during the pandemic, and giving psychological support to children. They also developed a COVID-19 checklist for personnel, and leaflets and posters for the children giving instructions on self-protection and hygiene.

Hygiene and protective materials and items for psychosocial support (e.g. sports equipment, art materials, table games) were purchased and delivered by **UNICEF Uzbekistan** to children in the penitentiary facilities, the four specialized educational correctional institutions and the centres of social and legal support. Overall, this support covered around 500 children.

Juvenile support services continued to be provided in **Tajikistan**. Para-social workers worked with children remotely communicating via mobile and, once every two weeks, providing learning materials in consultations with local departments of education. Despite the recommendation, children in detention or in special vocational schools were not released. To reduce their exposure to COVID-19, UNICEF partnered with the European Union delegation in Tajikistan, which agreed to provide PPE (masks, sanitizers, soap and chlorine disinfectant) to detention facilities (including the Boys' Colony, Special School and Special Vocational School) for three to four months. Leaflets and posters with information on hygiene measures and mental health during COVID-19 were supplied.

The country office has also arranged for psychosocial support workers to be on standby to provide mobile consultations and, in case of urgent need, to visit these institutions. The country office wanted to give the Boys' Colony

access to mobile phones procured and paid for by UNICEF to enable children to maintain contact with their parents and relatives during the crisis. Unfortunately, the institution administration did not support this idea, arguing that they will resume visits of parents and relatives as soon as possible (which did happen).

The country office is also working with the Ombudsperson for Children to monitor closed and semi-closed institutions to ensure that children have access to sanitary and hygiene facilities.

The country office recently signed a work plan with the Ombudsperson for Children for 2020–2021, which includes monitoring of detention facilities and semi-closed institutions.

6. Conclusion

The Technical note was timely, and it provided additional guidance to governments to appropriately respond to COVID-19 and children deprived of their liberty.

The response was underpinned by the strong reforms that had already been undertaken resulting in a considerable decline in the rate and number of children deprived of their liberty. ECAR will build on the successes to continue to work with governments to promote alternatives to detention and support measures to ensure that children are afforded equitable access to justice, and that those justice systems are equipped to address children's rights in crisis and non-crisis situations.

Endnotes

- 1 Alliance for Child Protection and Humanitarian Action and United Nations Children's Fund, *Technical Note: COVID-19 and children deprived of their liberty*, ACPHA and UNICEF, 2020, <https://alliancecpha.org/en/child-protection-online-library/technical-note-covid-19-and-children-deprived-their-liberty>, accessed 7 October 2020.
- 2 Statement by UNICEF Executive Director Henrietta Fore, *Children in detention are at heightened risk of contracting COVID-19 and should be released*, <https://www.unicef.org/press-releases/children-detention-are-heightened-risk-contracting-covid-19-and-should-be-released>, accessed 7 October 2020.
- 3 Includes Italy for refugee and migrant children response.
- 4 Albania, Azerbaijan, Montenegro, Turkey and Uzbekistan.
- 5 United States Centers for Disease Control and Prevention, *Interim guidance on the management of the Coronavirus Disease 2019 (COVID-19) in correctional and detention facilities*, CDC, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>, accessed 7 October 2020.
- 6 <https://youtu.be/mQgMxY28Vlk>
- 7 UNICEF Europe and Central Asia, *National responses to adjust child protection systems (COVID-19)*, UNICEF ECARO, March 2020, <http://socialserviceworkforce.org/resources/national-responses-adjust-child-protection-systems-covid-19>, accessed 7 October 2020.

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