

governments to abide by existing law is considerably the most detrimental factor inhibiting the goal of gaining compliance by non-State actors.

While International Humanitarian Law does not perfectly reflect the realities of warfare in contemporary conflict, it is important to realize that long-standing humanitarian norms are not so archaic that they cannot be applied in practice. The duty of lawyers in any field is to interpret existing laws and employ them as best as possible to a present situation, and the same truism applies to non-international conflicts and IHL in the world today [4]. Therefore, it is necessary to consider the ways in which IHL can and should be implemented given the current circumstances and available mechanisms for securing enhanced compliance.

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JUVENILE JUSTICE SYSTEMS IN EUROPE

In the last 20 years, youth justice systems in Europe have undergone considerable changes, particularly in the former socialist countries of Central and Eastern Europe.

Recalling the need to guarantee the effective implementation of existing binding norms concerning children's rights, without preventing member states from introducing or applying higher standards or more favourable measures;

Definitions For the purposes of these guidelines on child-friendly justice (hereafter «the guidelines»):

– a «child» means any person under the age of 18 years;

– «parent» refers to the person(s) with parental responsibility, according to national law. In case the parent(s) is/are absent or no longer holding parental responsibility, this can be a guardian or an appointed legal representative;

– «child-friendly justice» refers to justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level, bearing in mind the principles listed below and giving due consideration to the child's level of maturity and understanding and the circumstances of the case.

It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity [2].

Examples of juvenile criminal cases being treated separately from adult cases can be found in early Germanic law. Although concerns over juvenile justice strengthened in the 1870s, it was not until 1923 that Germany established a separate system of juvenile courts [1].

The contemporary juvenile system in Germany reflects the practices that developed in the Federal Republic (West Germany) after World War II. The primary goal of the German system is not to punish but to instruct delinquent youth and to change undesirable behaviour patterns, often by working within the family. Status offenses do not exist in the German legal system, but German youths who exhibit delinquent behaviour are often handled by the welfare system and by a guardianship court (family court). German law also recognizes three juvenile categories: children (those under 14 years of age, who are presumed to be not responsible for their actions because of their youth), juveniles (those between the ages of 14 and 18), and adolescents (those between the ages of 19 and 21). Generally, adolescents are considered more accountable for their actions than juveniles. Prosecutions of juvenile cases also differ depending on the seriousness of the offense: relatively minor cases (involving less than one year of incarceration) are handled by a juvenile court judge; more serious cases are heard by a tribunal composed of one juvenile judge and two lay judges; and the most serious cases are reserved for another mixed tribunal consisting of three trained judges and two lay judges [4].

In sum, youth justice policy as reflected in legislation and practice in the majority of European countries has successfully resisted a punitive turn. While there is more work to be done in the areas where policy is not yet clear, it's and that the ideal of social inclusion and reintegration will be the Leitmotiv for juvenile justice reforms of the 21st century [3].

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