

## Continuity and Change in the Spanish Juvenile Justice System

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Spain is one of the Mediterranean countries that belong to the EU. It is the third biggest country in Europe, behind Russia and France, with a surface of 504,782 km<sup>2</sup>. According to the National Institute of Statistics, there were 43,026,982 inhabitants by January 2004; i.e., the mean population density is of 86 inhabitants/km<sup>2</sup>. Nevertheless, there is a great inequality in the distribution of the population among regions. Most of the people live in the coastal regions and in big urban agglomerations; i.e., the region of Madrid has 724 inhabitants/km<sup>2</sup>, while Castilla-La Mancha, an inland region, has 23 inhabitants/km<sup>2</sup> only.

The Kingdom of Spain is composed of 17 autonomic communities and the towns of Ceuta and Melilla in the African border of the Mediterranean Sea. Although these communities have limited self-government, they have a high level of competences. Most of them are competent in health, education, agriculture, welfare, etc.

The Spanish society had suffered a radical transformation in the last 25 years: from 40 years of a dictatorial regime to a democratic country. The rhythm of legal, political, economical and social reforms was accelerated since 1986, when Spain joined the EU. From the point of view of the economy, data from EURO-STAT show that the PIB has increased more than 10 points in the last 10 years.

The recent prosperity and the geographical situation of the country have transformed it, in a very short period, from an emigrant country, into an immigrant recipient country. In 1991 there were 353,367 foreigners living in the country, which represents a 0.9% of the total population, while in 2004 they were 1,977,291, which represents a 4.6% of the population. Most of these immigrants come from Ecuador (15.7%), or Morocco (13.9%).

The juvenile population, younger than 18 years amounted in 2004 to 7,504,473 youngsters, a 17.4% of the total population. According the Spanish Juvenile Report (2000), the number of juveniles at compulsory school was 6,968,168. And following the same report, among the young people aged 15–19 years, 67.4% were studying fulltime, 12.9% had a job, while a 11.4% were studying with a part time job. The percentage of people of this age unemployed is of a 6.2%.

In this chapter we are going to analyse the Spanish Juvenile Justice System. First, we are going to describe how the juvenile delinquency has evolved during the recent years and then explain the organization of the system that regulates the new

Juvenile Criminal Act of 2000. To learn about the functioning of this system we will review the results of the main action lines on which the system lies.

## INTRODUCTION

The juvenile justice process in Spain has evolved considerably in recent years. Such evolution is manifest in the legislative transition from the OL 4/1992, Juvenile Court Reform Act of 1992 (JCRA) to the OL 5/2000 Juvenile Criminal Act of 2000 (JCA). The 1992 act was the legal text which first allowed the implementation of the “model of responsibility” in Spain, a “dual” framework striving for a balance between education and punishment in juvenile justice, as proposed by the United Nations. This act was largely criticized since it was a provisional act, not changing the overall performance of the juvenile justice system in an organized manner. However, such balance was finally achieved due to the efforts of those involved in the implementation of the act, mainly through the work that was done around two courses of action established by this act: *decriminalization* and “de-institutionalization” (Rechea Alberola and Fernández Molina, 2003).

The JCA attempted a legislative consolidation of this “model of responsibility,” which was being implemented in legal practice. This was an issue for actmakers involved in juvenile justice. Yet, such consolidation came late, since it came about at a time when other countries were turning to new views on criminal policy. The international context, within which this new act fell, had more to do with the English *No more excuses* report than with the UN *Beijing Rules* or the UN *Rights of the Child Convention* (ChRC). Following a social outcry that demanded “act and order” policies, the act incorporated tougher action against offenders. Consequently, both during the act-making proceedings and through further amendments, the new act accepted concessions towards social defence, thus abandoning its initial purpose of “individual justice” aimed at defending the juvenile’s best interest and at reaching a balance between education and punishment.

JCA is the first act in Spain since 1948 to compile all juvenile justice regulations as a single and complete system. To many interested people, this reform arrived too late, but the delay can be understood as a consequence of the Spanish political agenda of the moment; the reform of the Criminal Act, the “Spanish Criminal Act of Democracy,” in 1995. Nevertheless, the delay may also be an indication of the importance that Juvenile Justice has had in Spain, as it has always been a peripheral subject matter.

According to JCA, justice for juveniles is to be administered by a separate system within the general legal system with its own specific and specialized court. Jurisdiction of the juvenile court is determined by the offender’s age and his or her conduct. With respect to conduct, the system is exclusively a criminal responsibility system. The legislators’ intention was to make juveniles responsible for their criminal acts, and at the same time, to protect young and adolescent delinquents