**CONTRIBUTION**

**BY THE GOVERNMENT OF THE REPUBLIC OF LATVIA**

**WITH REGARD TO THE DRAFT GENERAL COMMENT No.24**

**“ON CHILDREN’S RIGHTS IN JUVENILE JUSTICE” OF THE COMMITTEE ON THE RIGHTS OF THE CHILD**

1. In reply to the Note Verbale CRC/GC/AF of 12 November 2017 of the Office of the High Commissioner for Human Rights, the Government of the Republic of Latvia (hereinafter – the Government) submits the following contribution regarding the Draft General Comment No.24 of the Committee on the Rights of the Child “On children’s rights in juvenile justice” replacing General Comment No.10(2007).
2. The contribution will address paragraph 101 of the Draft General Comment concerning the age limit for the use of deprivation of liberty, which reads as follows:

“101. The Committee encourages the State parties to fix an age limit for the use of deprivation of liberty and recommends that no child in conflict with the law below the age of 16 years old be deprived of liberty, either at the pre-trial or post-trial stage. Even above that age, deprivation of liberty should only be used as a measure of last resort and for the shortest period of time with the child’s best interests as a primary consideration.”

1. The Government takes note that the current wording of paragraph 101 of the Draft General Comment essentially concerns three facets related to use of measures resulting in deprivation of liberty. The first facet reflects the understanding that the age limit for any uses of deprivation of liberty with regard to children in conflict either at the pre-trial or post-trial stages should be fixed, preferably by law. The second facet requires that irrespective of the age of the child the deprivation of liberty should only be used as an exceptional measure. Whereas, the final facet concerns the minimum recommended age for application of measures involving deprivation of liberty, which in the opinion of the Committee should be no less than 16 years of age.
2. The Government acknowledges the seriousness of the issues raised by the Committee concerning application of measures resulting in deprivation of liberty with regard to children in conflict. In particular, the Government shares the concerns of the Committee that the deprivation of liberty in respect of children should be used only as an exceptional measure, for the shortest period of time and the modalities of its application should be fixed by law.
3. However, the Government does not share the views expressed by the Committee that the recommended minimum age for application of the afore-said measures should be 16 years of age. In the opinion of the Government, the issue of the minimum age for application of measures resulting in deprivation of liberty is inherently closely linked with the minimum age of criminal responsibility, both of them being core modalities of the juvenile justice, and therefore the same or similar approach should be taken when establishing the modalities pertaining to the afore-mentioned minimum age limits. Such rationale is acknowledged in many States, which have fixed in their legislation the minimum age of criminal responsibility, whereby the minimum age limit for criminal responsibility tends to correspond with the minimum age as to when various criminal procedural measures, including measures involving deprivation of liberty, become applicable.
4. In this regard, the Government recalls that the Committee, when elaborating on the modalities pertaining to the minimum age of criminal responsibility, in paragraph 33 of the Draft General Comment has referred to respective international standards, which recommend that the minimum age should not be fixed at too low age level. The Committee itself, having examined various practices among the States parties, encouraged them to increase the minimum age of criminal responsibility to at least 14 years of age.
5. The Government would invite the Committee to use the same approach with regard to the recommended minimum age for application of measures resulting in deprivation of liberty, namely, to examine and to take into account the practices among the States parties, in particular, those which have incorporated in their legal systems same minimum age limits for criminal responsibility and application of deprivation of liberty.
6. Such approach would duly take into account the variety of practices among the States as well as would be consistent with the principles enshrined in *the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)* adopted by General Assembly Resolution 40/33 of 29 November 1985, which confirm that “any age limits tend to depend on and are explicitly made dependent on each respective legal system, thus fully respecting the differences between various economic, social, political, cultural and legal systems. The said variety is inevitable in view of the different national legal systems, however, should not be perceived as diminishing the impact of the international standards.”[[1]](#footnote-1)
7. For these reasons, the Government would invite the Committee to use the same approach with regard to both minimum age limits mentioned in paragraphs 33 and 101 of the Draft General Comment, namely, to encourage the States to fix the minimum age levels for criminal responsibility and for application of measures involving deprivation of liberty to the same age, it being at least 14 years of age. Accordingly, the Government requests the Committee to re-examine its current proposal for paragraph 101.
1. Commentary to Rule 2.2., *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*. [↑](#footnote-ref-1)