

## Execution of criminal decisions for juveniles and their suspension

MSc. Enkela Hoxha  
*Agricultural University of Tirana*

### Abstract

Juvenile criminal law is characterized by special care, humanism, and efforts to "punish" the perpetrators so that the person is not harmed and oriented towards the best possible education, with the norms of civic education. The aim of the legislature is that through special care efforts be made to channel and discipline this specific category so that they feel the care of society and the state in their lives. Detailed efforts have been made to provide, through the Juvenile Justice Code, proper legal regulation of all aspects pertaining to the field of criminal proceedings, punishment and enforcement for the category of juveniles who for various reasons have participated in committing various criminal offenses. The legislator has rightly attached special importance to this category of subject, to whom society and the state have a high sensitivity, not only for the fact of their arrival as honest citizens, but also for what avoids and prevents the commission of them of future criminal offenses.

**Keywords:** execution of criminal decisions for juveniles, juvenile criminal law, juvenile defendant.

### Introduction

In our Criminal Code, special attention has been paid to the treatment of minors, making a difference with adults, due to their age and mental development. In cases where the juvenile is the defendant, the legislation provides for multiple alternatives to the sanctions imposed on him and the most extreme case is that of the arrest of a prisoner. During this time, the juvenile who is a defendant must be compulsorily settled only in the juvenile section in the detention facilities.

The juvenile defendant who is under the security measure of imprisonment, during this time that this security measure is against him, must be compulsorily settled only in the section of juveniles in the detention facilities, this means that in the detention facilities must to create the juvenile section, which will serve this purpose. This is defined in the bylaws issued by the Minister of Justice. While the execution of the sentencing decision for the juvenile containing imprisonment will be executed by placing him in the special institution that will serve for the serving of the sentence for the juvenile. "Services in detention and imprisonment institutions where juvenile defendants / convicts are placed must comply with the requirements of respecting the health and dignity of the juvenile and be in the function of re-socialization, reintegration, rehabilitation and prevention of re-offending committing a crime or committing another criminal offense, providing the juvenile with care, assistance and supervision."<sup>1</sup> "There should be at least one doctor, one nurse, one psychologist, one social worker in the staff of detention and juvenile detention institutions. According to the case, the institution must provide the possibility of a pediatrician, psychiatrist

<sup>1</sup> Juvenile Justice Code of the Republic of Albania, Article 110, point 2.

or any other specialist, according to the needs and according to a defined control regime."<sup>2</sup> There should be visual control in these environments with minors, which can also be done electronically. This should not be understood as a tutelage, but rather because of their juvenile age, they are separate entities and in terms of isolation, can take actions that could harm their health or harmful actions for their peer-to-peer peers, as well as other harmful actions.

Strict rules have been established for the execution of the criminal decision with imprisonment in order to protect the interests of minors. At the core of these rules are the standards set by the Constitution, the International Agreements that have been accepted by our state, so they have been ratified as well as by other acts such as the Criminal Code, the Juvenile Justice Code and those established by the Code of Criminal Procedure. "The General Regulation of Prisons provides in particular rules for: a) the structure and functioning of the Institutions for the Execution of Juvenile Criminal Decisions; b) individual planning of the execution of the sentence for juveniles; c) implementation of forms of incentives and other measures for juvenile offenders; ç) imposing disciplinary measures on juvenile convicts; d) the procedure for reviewing the requests and complaints of juvenile convicts; dh) organization of the rehabilitation process of juvenile convicts; e) conditions for the implementation of security measures and the use of special means for juvenile convicts; ë) the functioning of the registers and personal files of juvenile convicts; f) visual and / or electronic surveillance and control of juvenile convicts; g) the most detailed conditions for the execution of the prison sentence for juvenile convicts."<sup>3</sup> "Juvenile convicts are placed only by adult convicts, determining the cases of placing, holding and moving them outside the institution, but always separated from adults. The same is true for minors, who are separated from juvenile men by showing exceptional cases. Inside the juveniles are divided according to age group, type and importance of the work they have committed, their physical and mental development is also taken into account. These rules are set out in detail in the general prison regulations."<sup>4</sup> Furthermore, this code defines rules pertaining to medical control, this to identify their health condition, the ascertainment of any physical or mental harm to enable health assistance and care, but also to build work with the juvenile in particular, his level and psychological side. The law also sets out in detail the ways and forms that belong to their health service, including the forms of their health care and treatment. This includes all areas of health care, such as psychiatric care, service to drug or alcohol users, dental care, eye care, and more.

When there are findings of abuse, even before the juvenile, the prosecutor is notified, who decides and operates according to the provisions of the Juvenile Justice Code and the Criminal Procedure Code.

"For living and food conditions for juvenile defendants / convicts, even more special care is shown compared to the conditions of defendants and other convicts."<sup>5</sup> They are provided with the conditions of education, including the provision of

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<sup>2</sup> Juvenile Justice Code of the Republic of Albania, Article 110, point 4.

<sup>3</sup> Juvenile Justice Code of the Republic of Albania, Article 111.

<sup>4</sup> Juvenile Justice Code of the Republic of Albania, Article 113.

<sup>5</sup> Juvenile Justice Code of the Republic of Albania, Article 116, point 1.

conditions for the realization of compulsory basic education and, as the case may be, secondary and higher education. The educational process in detention or imprisonment of juveniles must be in accordance with the standards of education in general in Albania, in terms of the content of the program and its values. Efforts are being made here by the legislator to make the pursuit and development of education possible outside the detention and detention facilities, considering as a special case the development of the teaching process in the detention and imprisonment facilities. In this part it is rightly foreseen that "Juvenile / young prisoners are given opportunities for professional training, according to their interests and inclinations and that will help in their employment after leaving the institution."<sup>6</sup> This is a very effective form because it not only attracts them to certain fields, such as the electrical, mechanical, etc. sectors, but also gives them a certain profession which will prevent their continuation and repetition on the path to crime. It is very objectively provided that "Documents proving the education carried out by juvenile defendants / convicts in the period when they were defendants or when serving the sentence should not contain information that makes it possible to identify the juvenile as a former convict or the identification of a previous conviction."<sup>7</sup> This is to preserve their dignity and personality.

For juveniles who have "gaps" in their knowledge and normal education is difficult, it is required that special and individual programs be organized with them to "overcome" these difficulties and to follow their schooling program.

The law also regulates a very important aspect that has to do with their employment, allowing and creating a very valuable space that has to do not only with their education, but also with other areas such as their health, serves to relieve the stress caused by their isolation. It also has a financial benefit, here the law provides and allows these young people to work outside the institution by subject to the rules provided by the Labor Code that include the daily duration of work 6 hours, of course here are some restrictions aimed at protection of the interests of the minor. "Minors in conflict with the law are given the opportunity for walking, sports activities and daily rejuvenation, through the use of appropriate sports equipment in a suitable space."<sup>8</sup> The contacts with the family and the social circle are determined in detail and with a very wide range, of course this is a necessary side and fills a big gap of the juvenile convict, who needs this type of contact, therefore with rightly attention has been paid to this aspect as an important part of its rehabilitation. A good arrangement has also been made for the permission given to the juvenile sentenced to imprisonment while he is serving this sentence.

According to the law, "A juvenile sentenced to imprisonment has the right to receive a short leave from the place of serving the sentence three times a year. The duration of this permit does not exceed 15 days. This time includes the time needed to travel to his family or destination."<sup>9</sup> The way the legislator has expressed himself has a ambiguity and leaves room for interpretation as it is not clear what

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<sup>6</sup> Juvenile Justice Code of the Republic of Albania, Article 117, point 4.

<sup>7</sup> Juvenile Justice Code of the Republic of Albania, Article 117, point 5.

<sup>8</sup> Juvenile Justice Code of the Republic of Albania, Article 119, point 1.

<sup>9</sup> Juvenile Justice Code of the Republic of Albania, Article 121, point 1.

the legislator meant, that all three permits together do not exceed 15 days in total or in each case he will benefit 15 days? First of all, we understand that this permit is not in the faculty of the institution, but it is his obligation as it is said that "The juvenile sentenced to imprisonment has the right to receive a short leave from the place of serving the sentence", so it is a right of juveniles and despite the unclear manner of the law that 15 days will be the term of only one permit or of all three cases, we think that this deadline belongs to only one permit case, this is because this permit also includes the time of necessary for travel. Permission is conditional on the time of imprisonment he has on his sentence, and depending on how much he has suffered from it, for example he must have served 1/3 of the sentence to receive this leave, when he has a sentence not less than 3 years in prison and so on. During the execution of the sentence, the juvenile follows the implementation of an individual planning that is followed and directed by a social worker, who is responsible for the progress of this planning. "A convict who reaches the age of 18 is not allowed to stay in the Juvenile Enforcement Institutions and is sent to a place where he is serving an adult sentence."<sup>10</sup> "The law also focuses on defining forms of motivation to encourage convicted juveniles to respect and embrace educational programs such as: a) giving a statement of appreciation, b) premature removal of a measure. disciplinary, c) giving an additional visit, c) giving the right to a conversation with additional videoconference, d) an additional phone call, dh) allowing unrestricted items, e) the right to use the computer, etc."<sup>11</sup> In addition to these advantages, the limits of implementation of disciplinary measures are determined, starting with the warning in the form of warning and are further marked as such, restrictions up to one month of attendance of the store located in the premises of the institution, limitation up to one month and the right to use permitted items, etc. In addition to determining the measures, the procedure for their appointment is described, as well as the right of the juveniles to have a complaint against the taking of these measures by the institution.

The law also regulates the issue of parole of these convicts, significantly favoring them compared to adult convicts in this respect. For the conditional release of a minor, duties are imposed on the court which, in addition to the reasons for which it deems it necessary to act in that way, which means to order the release of the convict, must contain the conditions imposed on the juvenile in order for him to relies on and best complements its reintegration and re-socialization. If the juvenile violates or does not comply with the conditions set out in the decision given by the court for his parole, then it may result in revocation of the decision, returning it to the continuation of the execution of the sentence. Of course, this decision is appealable according to the rules set out in the Code of Criminal Procedure. Periodic review of the possibility and parole for the juvenile is also provided, this includes the time period every 3 months and is reviewed at the request of the juvenile convict.

Detailed rules are provided by law by imposing duties on the Institution for the Execution of Criminal Decisions, in order to prepare the juvenile for

<sup>10</sup> Juvenile Justice Code of the Republic of Albania, Article 123, point 2.

<sup>11</sup> Juvenile Justice Code of the Republic of Albania, Article 124, point 1.

the time after his release from serving the sentence. For this purpose, the administration is tasked with preparing a special plan, in cooperation with the juvenile, his family members, and the juvenile protection structures. The law stipulates the establishment of a new structure such as the "Center for the Prevention of Juvenile and Youth Crimes" at the Ministry of Justice, which will aim to monitor and protect minors or young people after they have served their sentences. In a very well-studied and comprehensive way, the preparation and needs of the juvenile after his release are foreseen. Here are the details of the duties of these bodies, including the institution of the Probation Service.

As stated above, all these actions and preparations are made by these state institutions as a care for the juvenile so that he finds himself in society and avoids to the maximum the possibility that he will return to the wrong path of crime, or of other criminal offenses. Following these provisions, the activity of these bodies for the support that should be given to the juvenile after his release from serving the sentence is also regulated. Here the law further extends the action of various bodies by activating those of local government, which can make appropriate housing possible when the juvenile does not have such.

I would say that although the law does not provide for the obligation of local government bodies to provide care for these minors for the systematization of this category at work, or for their registration or attendance of professional courses, but the law in question charges those bodies with this important obligation, to contribute at least a little in the systematization of these persons, with the care for housing why not for employment when there are opportunities, but that the local government has contacts with some of the businesses through which it can systematically prefer categories of juveniles who have been contingent on criminal offenses.

### **Conclusions**

In conclusion, we highly appreciate the very large and qualitative step taken by the juvenile criminal legislation, which in detail brings a very important regulation in this area. However, we believe that the existence of a complete and accurate law is not fully sufficient to bring about the appropriate effects in this delicate and important area. In addition, maximum efforts should be made for this law to be implemented, ie the implementation of respecting the human spirit and special care for this category of people. This requires special care to select specialists who will follow the implementation of this law, especially in the phase of execution of juvenile criminal decisions, so make efforts to make the most of the space of this law, which has in its entirety the interest of minors. Of course, the correct and accurate implementation of the law in practice will also guarantee the maintenance of balance so that the advantages and conveniences of the law do not turn into a negative effect. We have in mind here the fact that the "soft" punishments and the favors provided for in the law on juveniles do not serve as a motivating factor to postpone in any case the recurrence of a crime or criminal offense.

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