

Juveniles in Criminal Proceedings

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Abstract

This paper is of a combined character; summary and research, as it contains comparisons and research in a critical way, so it includes content and important psychological aspects of criminal actions that lead the juvenile person to conflict with the law, including factors which directly or indirectly affect this category of society to be involved in criminal activity.

Even more fundamentally, it has been possible to include the comparative character of the actions of the relevant institutions that treat this category of society in the criminal aspect, respectively the theoretical-practical aspect and the legal basis of these institutions.

The paper highlights the advantages and difficulties that arise between law enforcement agencies for the treatment of this category of persons in a criminal process, as well as legal shortcomings, especially bylaws and especially emphasizes the need to actively engage the social worker and psychologist in the criminal process, as a necessity which, despite the reform of the legal infrastructure, still remain outside the necessity of active involvement in the juvenile proceedings.

Keywords: Juvenile justice, reform, adequate treatment, prevention, harmonization, re-socialization, legal process, juvenile personality, standards.

Juveniles in criminal proceedings

The important fact in a criminal trial is that the victim as well as the society needs to know about the perpetrators of criminal offenses, and also the interest that the perpetrator will not go unpunished, is a necessary step to bring the perpetrator to justice, regardless of who he is.

The treatment of criminal cases involving juveniles, of course, presents significant difficulties for the security system, the justice system and other authoritative bodies, and this is precisely because of the situations that crimes involving minors, by their very nature, are complex and difficult to fully address, and when you add to this fact the Republic of Kosovo is considered among the countries in transition with an unstable legal infrastructure, because the provisions for the treatment of juveniles have been very unique in a comprehensive code, but distributed across different laws, and make it even more difficult to achieve the desired efficiency in the treatment of this category of persons involved in criminal offenses.

The purpose of this paper focuses on three main areas:

a). To present the importance of the psychological factor, the social factor and other factors that influence a juvenile to conflict with the law and social moral norms.

- b). Identify the most effective methods and ways to prepare a juvenile to be interviewed-declared in a criminal trial.
- c). To highlight, through research, the advantages, disadvantages, cooperation and the need to increase inter-institutional capacity for the best possible treatment of this social category.

Legal proceedings against juveniles in the Republic of Kosovo

Based on national and international legal acts dealing with juveniles, it is emphasized that due to their immaturity we can influence them both positively and negatively and that the purpose of the specific treatment of juvenile offenders is primarily is for the juvenile to be re-socialized and compensated for what has been released in his education, in order to become a useful member of society.¹

The legal process against the juvenile is characterized by actions and procedural progress different from that of the adult, and in turn I will emphasize some of them: Criminal proceedings against juveniles shall apply to those persons who have committed a criminal offense as minors, who have not reached the age of 21 at the time of the commencement of the proceedings, or that of the trial; The juvenile cannot be tried in absentia; Protection in juvenile proceedings is mandatory; The presence of the parent, adoptive parent or guardian in the juvenile proceedings is their right; Regarding the principle of publicity, there is no publicity in the procedure against juveniles, so the publication of generalities and photographs of defendants and juvenile witnesses accused or harmed by a criminal offense is prohibited.

The legal aspect for juveniles in relation to that of adults is also characterized by the fact that the procedure against juveniles must always be conducted urgently and that the bodies that participate in the procedure against juveniles and other bodies from which notifications are required, reports or thoughts, have a duty to act quickly and without delay².

The prosecution in the procedure for juveniles is obligatorily exercised according to the principle of officiality and that for all criminal offenses the procedure begins only on the basis of the request of the state prosecutor and initiates it through the preparatory procedure;

For criminal offenses punishable by up to 3 years in prison or a fine, the prosecutor may decide not to initiate any preparatory proceedings for criminal offenses punishable by less than three years, even when there is a reasonable suspicion that the juvenile has committed an offense and specifically the care of some things like; The non-arrest for a criminal offense which is foreseen as a criminal offense as well as the Criminal Procedure Code clearly states that the prosecuting authority must obtain data on the personal, family and social living conditions of the juvenile defendant in order to clarify liability and degree of responsibility, assessing the social significance of the fact to determine the appropriate measure of criminal punishment.

Three measures to ensure the presence of a minor: Temporary arrest, Police detention and Detention; law enforcement agencies are ordered only as a last resort and for as

¹ Dr.sc Ejup Sahiti&Dr.sc Rexhep Murati, Criminal Law Procedure pg.425 Prishtine, 2013.

² Juvenile Justice Code, Article 40.

short a time as possible.

Temporary arrest or detention of a juvenile may not exceed the period of twenty-four (24) hours. A juvenile may be held in detention by a decision of a juvenile judge for a maximum period of thirty (30) days from the day he or she was arrested. Detention of a minor may be continued only by the juvenile panel of the competent court for an additional period of up to sixty (60) days.³

A very important characteristic regarding the interrogation of a juvenile is that in cases when the child against whom the criminal offense has been committed, such interrogation is applied at most two (2) times with the help of a pedagogue, psychologist or any other expert.

With regard to the witness taking into account the importance of age, the court may order that the witness be questioned outside the courtroom through closed circuit television, or in his home or at any other location where he or the center for social work is located.⁴

Another characteristic that accompanies this category of persons is the obligation to notify the competent body for social welfare for arrest, when it is necessary to take measures to protect children and other family members of the arrested person who are under his care.⁵

As a guide also should be considered Beijing Rules United Nations Rules for the Protection of Young People Who Have been Deprived of Freedom (Havana Rules) Convention on the Rights of the Child.

Juvenile detention should be used as a last resort and for as short a time as possible. Detention of juveniles in detention should be carried out separately from adults, in separate institutions or separate parts of the institution by adults, also stipulates that during detention or supervision all beneficiaries should receive the necessary care, protection, individual, educational, professional, psychological, medical, physical assistance depending on age, gender, personality. Exclusion of minors from capital punishment and corporal punishment; Impartial and humane treatment; Keeping the minor's thoughts in mind; Imprisonment should be the last resort and imprisonment should be as short as possible; Deprivation of liberty must be applied to very serious cases; Making decisions as soon as possible; Specialization of the judiciary; Juvenile reintegration.⁶

These rules in their entirety refer to the protection of juveniles who have now been deprived or restricted of their liberty, such as: Applying parole (1 / 2); Removal of liberty is the last resort and this should have a limited duration; The deprivation of liberty for minors cannot be done without an objective legal motive; Creating units of open institutions should be a priority; Preparing juveniles who have been deprived of their liberty for restitution and return to the community; The importance of educational programs for them; Maintaining contact with family; Training of staff of institutions or centers.⁷

In the national aspect, it represents the basic legal framework, according to which

³ Juvenile Justice Code, Article 66.

⁴ The same code, Article 147.

⁵ KPP, Article 186.

⁶ United Nations minimum standard rules for administration of Beijing's international juvenile justice.

⁷ United Nations Rules for the Protection of Children Deprived of Freedom-Havana Rules 1990.

all states have the obligation to implement these conventions and the obligation to harmonize national codes in full compliance with them.

States Parties shall take all appropriate measures to ensure that the child is protected from all forms of discrimination or punishment, due to the position, activities, expressions of opinion or beliefs of his parents, his legal representatives or members of his family. In all actions related to the child, whether taken from public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interests of the child must be a primary consideration. States Parties shall ensure that the institutions, services and centers responsible for the care and protection of children act in accordance with the norms set by the competent authorities, in particular in the areas of security, health, number and skills of their staff and proper supervision.⁸

They may not understand how the statement is processed in the Police and Prosecution institutions and especially in the Court, or they may have difficulty understanding the language used by the judge and lawyers and other participants. Studies and practice show that a large proportion of juveniles have the perception that being questioned by the Police, the Prosecution or the Court is a serious matter, and therefore seeing such a phenomenon over misperceptions, it would of course be acceptable that juveniles, who will testify before a criminal trial, must first be psychologically prepared so that his testimony has the desired effect.⁹

The interrogation of juveniles, taking into account that KDM and KPP decisively determine that the juvenile in a criminal process the maximum that can be questioned is twice, then forces the relevant bodies to have great preparation and care that not to exceed this rule and to use the opportunities to properly interview the juvenile.

Each of the diversity measures or educational measures to be imposed on the juvenile offender does not depend on the type and severity of the offense, but on the characteristics of the juvenile offender and the need for his or her proper education, rehabilitation and development. Juvenile offenders between the ages of sixteen and eighteen may, in severe and special cases, be sentenced to juvenile detention, which has many features of educational measure¹⁰.

Diversity measures are a type of non-criminal measures provided for in Chapter IV of the Juvenile Justice Code, which may be imposed on juvenile offenders. These measures may be applied in cases of minor criminal offenses punishable by a fine or imprisonment of up to three years or for a criminal offense committed by negligence punishable by up to five years in prison, with the exception of those which result in death¹¹.

The imposition of these measures aims to prevent the development of criminal proceedings against the juvenile whenever such a thing is possible, the rehabilitation and reintegration of the juvenile in his community as well as the prevention of

⁸ KDF, Approved by the General Assembly with its Resolution 44/25 of 20 November 1989. entered into force: 2 September 1990.

⁹ Psychologist: Klodian Gega and Naureda Hasani, Psychologist and social worker in juvenile justice, comprehensive manual Publication of the Center for Integrated Legal Services and Practices - Legal Clinic for Minors Funded by UNICEF-Tirana 2009.

¹⁰ Salihu, Ismet. Criminal law (general part), Prishtinë, 2005, pg. 430.

¹¹ Juvenile Justice Code, Article 17, paragraph 1.

recidivist behavior.

The Juvenile Justice Code provides for eight types of diversity measures that can be imposed on juvenile offenders, reconciliation between the juvenile offender and the injured party, including seeking forgiveness by the juvenile against the injured party; reconciliation between the juvenile and his family; compensation for damage to the injured party under the mutual agreement between the injured party, the juvenile and his legal representative, in accordance with the financial situation of the juvenile; regular attendance at school; acceptance of employment or training in a profession appropriate to his or her skills and abilities; performing unpaid work for the general benefit in accordance with the abilities of the juvenile perpetrator to perform such work.

Educational measures are a special type of criminal sanctions of an educational-pedagogical nature, which are mainly dedicated to juvenile offenders.¹²

Educational measures are imposed on persons who are between the ages of fourteen and eighteen at the time of the commission of the criminal offense. These educational measures can also be imposed on the young adult when the court deems that the purpose of the imprisonment will also be achieved by imposing the measure or punishment, taking into account the circumstances under which the criminal offense was committed, the opinion of expert regarding the psychological development of the young adult and his best interest.¹³

At the epicenter of all kinds of measures and punishments set out in the Juvenile Justice Code that can be imposed on juvenile offenders are precisely educational measures. With these educational measures, it is possible for juveniles in most cases without isolation from the family, school and social environment to be rehabilitated, protected, assisted and educated and to be prepared for the future as useful members of society and act in accordance with legal norms.¹⁴

The purpose of educational measures is to contribute to the rehabilitation, re-education, re-socialization and adequate development of the juvenile offender by providing protection, assistance and supervision, providing education and professional training, developing his personal responsibility, and thus prohibiting recidivist behaviors, thus that in the future the juvenile perpetrator becomes useful to himself, his family, society, and always acts in accordance with legal norms.¹⁵

Judicial reprimand is the easiest form of disciplinary action and is imposed for minor criminal offenses, in cases where there is no need to impose other more serious measures provided for in the Juvenile Justice Code. Consequently, the court imposes the measure of judicial reprimand when such a measure is considered sufficient and in the interest of the juvenile to positively influence his behavior.¹⁶

Sending a juvenile to a disciplinary center, the measure of a disciplinary center, is a measure of light character which is imposed by the court against the juvenile offender when it forms the conviction that the offense is the result of frivolity and negligence, and is thought to be treated short-term but intense disciplinary character can avoid

¹² Salihu, Ismet. Criminal law (general part), Prishtinë, 2005, pg.427.

¹³ Juvenile Justice Code, Article 11, par. 1.

¹⁴ Salihu, Ismet. *Juvenile Criminal Law, Prishtina 2005*, pg. 39.

¹⁵ Juvenile Justice Code, article 19.

¹⁶ Juvenile Justice Code, Article 21, par. 1.

such behaviors in the future and the juvenile can improve and act in accordance with legal norms.¹⁷

This measure is executed in a disciplinary center established for this purpose, in addition to educational-pedagogical treatment, the juvenile engages in useful activities that must be adapted to his age, abilities and physical skills.¹⁸

The court may order the juvenile to be sent to a disciplinary center: up to one (1) month, up to four (4) hours per day or at most four (4) days during the school or state holiday, up to eight (8) hours a day¹⁹.

Educational measures of increased supervision, these measures are mostly imposed in court practice against juvenile offenders, whose interests do not require their isolation from the previous environment and be kept longer. With these measures, the juvenile is also warned about the bad and harmful behavior.

The general criteria for imposing educational measures of increased supervision are: the need of the juvenile to be reprimanded by the educational measure, by which he is informed that his behavior has committed a harmful act which it is provided by law as a criminal offense; the need of the juvenile for education, re-education and his/her fair development, a goal which can be realized in the previous environment of the juvenile; the need for the juvenile to improve his/her behavior, which has pushed him/her to commit a criminal offense, through the short-term or long-term program; the need for the juvenile to enable education and vocational training through these measures²⁰.

Increased supervision measures are imposed on juvenile offenders against whom legal obligations have not been met by parents, family, competent educational and social institutions..

The Juvenile Justice Code recognizes three types of educational oversight measures: increased supervision by the parent, by the adoptive parent or guardian of the juvenile; added supervision by the other family and added supervision by the custodial body. The duration of this measure cannot be shorter than three months or longer than two year²¹.

Institutional measures are the most severe type of educational measures provided for in the Juvenile Justice Code, with these measures the juvenile offender is deprived of liberty and placed in special institutions for the purpose of education and rehabilitation.

These measures are imposed on the juvenile whose interests are best taken into account by his separation from the previous environment and by the longer-term measure that the juvenile offers the opportunity for education, rehabilitation or treatment²².

The Juvenile Justice Code provides for three types of institutional educational measures: sending to the educational institution, sending to the educational-

¹⁷ Halili, Ragip, *Penology*, Prishtinë, 2005, pg.259.

¹⁸ Salihu, Ismet. *Juvenile criminal law*, Prishtinë, 2005, pg. 41.

¹⁹ Juvenile Justice Code, Article 22, par. 2.

²⁰ Salihu, Ismet . *Juvenile criminal law* , Prishtinë, 2005, pg.43.

²¹ Juvenile Justice Code, Article 20, par.3.

²² Juvenile Justice Code, Article 20, paragraph 4.

correctional institution and sending to the institution for special care²³. When the court imposes the measure of sending to the educational or educational-correctional institution for up to two years, it may impose a conditional sentence in accordance with the Criminal Code of Kosovo²⁴.

Sending the juvenile to the educational institution, this educational measure is imposed on juvenile delinquents who have committed criminal behavior and their personality shows that the goal of education and re-education can be achieved only by separating them from the previous environment and placing them in a separate institution with one full supervision by adequate educators and when such a measure is in the best interests of the juvenile.

In order for the court to impose this institutional measure, two conditions must be met: the general condition that the juvenile needs full separation from the previous environment and the purpose of education and rehabilitation of the juvenile can be achieved only with long-term measures, and the condition of especially that for the education and re-education of the juvenile a permanent supervision of professional educators is required²⁵. Sending to an educational institution may not be shorter than three months or longer than two years²⁶. This measure is executed under the supervision and care of the Probation Service In the territory of the Municipal Court in Peja during the period 2005-2009, this educational measure has not been imposed in any case, because there are no institutions for its execution.

Sending to the educational-correctional institution is the most serious institutional measure which is foreseen in Article 28 of the Juvenile Justice Code. The court imposes this measure on the delinquent juvenile when he has committed a serious criminal offense punishable by imprisonment of more than three (3) years and needs specialized education and when such a measure is in the best interest of juveniles.

In the case of imposing this measure, the court takes into account the gravity of the criminal offense, the nature of the criminal offense, the motives for committing the criminal offense and the recidivism of the juvenile offender²⁷. For the imposition of this educational measure, two conditions must be met: first, it must be ascertained that the juvenile has committed a serious criminal offense for which a sentence of imprisonment of more than three years is envisaged and it is a question of a minor whose personality indicates severe deviations in education, and secondly if the juvenile has previously been sentenced to educational or juvenile detention. The duration of this measure cannot be shorter than one (1) year or longer than five (5) years²⁸. Every six months, the court is obliged to reconsider its decision and, depending on the success of the execution, decide whether to suspend, continue the execution of this measure or replace it with an easier educational measure. This educational measure is executed in the institution which was established especially for this purpose, these institutions can be of the semi-open and open type. The educational-correctional institution provides protection, assistance and supervision to minors in order to

²³ Ibid, article 20 , par.4.

²⁴ Ibid, article 7, par.5.

²⁵ Salihu, Ismet. Juvenile criminal law, Prishtinë, 2005, pg. 53.

²⁶ Juvenile Justice Code, Article 27, paragraph 1.

²⁷ Ibid, article 28.

²⁸ Ibid, article 28, par 3.

educate, educate and develop them fairly ²⁹.

Sending to the institution of special care, the Court may impose the measure of sending to an institution of special care instead of the measure of sending to an educational institution or educational-correctional institution with the recommendation of a medical expert if the juvenile needs care special due to mental disorder or physical disability and when it is in the best interest of the minor³⁰. This measure is imposed on those juveniles who have committed criminal offenses due to disorders and stagnation in biopsychic and spiritual development such as e.g. deaf people, blind people, people with mental retardation and juveniles with other spiritual and mental disorders.

This measure is of special importance for the training and rehabilitation of juveniles with disabilities, especially for the prevention of their criminal activity (recidivism). The court may impose the following special obligations on the juvenile: (1) to personally apologize to the injured party, (2) to compensate the injured party for the damage in accordance with the financial situation of the minor, (3) to continue regular schooling, (4) to accept employment or to be trained in a profession which suits his skills and abilities, (5) to refrain from any contact with certain individuals who may have a negative impact on the minor, (6) to accept psychological advice, (7) not to visit certain places or environments that may have a negative impact on the juvenile, (8) to refrain from drug and alcohol use³¹. These special obligations help minors in education, rehabilitation, the creation of new habits and complete distancing from deviant behaviors and the prevention of recidivism and their integration into society. The court must also take into account these basic criteria and circumstances: the type and severity of the criminal offense, the age of the juvenile, the level of psychological development, his character and inclinations, the motives that prompted him to commit the criminal offense, his education in this stage, environment and circumstances of his life, if a measure or sentence has been imposed earlier and other circumstances that may affect the imposition of the measure or sentence.

Exceptionally for the imposition of the measure of sending to an educational-correctional institution, where, in addition to other conditions, it is required that the juvenile has committed a criminal offense punishable by imprisonment of more than three years. The Probation Service, which prepares a full social survey for the juvenile, is also engaged in the collection and settlement of these circumstances at the request of the public prosecutor, the juvenile judge or the judge³².

The court, on the occasion of imposing a certain type of educational measure, determines its time-extension. The law provides for the possibility for the court to reconsider its decision every 6 months and depending on the success decides on the change or cessation of the execution of the educational measure. The court monitors the execution of educational measures through the reports of the director of the institution or center where the educational measures are executed which are submitted to the court every 6 months, and the visits made to juveniles in the

²⁹ Halili, Ragip. *Penology*, Prishtinë, 2005, pg.265.

³⁰ Juvenile Justice Code, Article 29.

³¹ Juvenile Justice Code, Article 26. par.2.

³² Juvenile Justice Code, Article 8, par. 2.

institution by the juvenile judge every 6 months³³. The request for reconsideration of further execution of the educational measure may be submitted by the minor, his parent, adoptive parent or guardian, the Probation Service, the center, the institution where the educational measure is executed. With regard to such a request, the juvenile panel shall make a decision within eight days of the receipt of the request. An appeal against this decision may be lodged with the court of second instance within three days of the receipt of the decision.

When reviewing the educational measure *ex officio* or at the request of the mentioned subjects, the court takes into account the reports of the Probation Service and those of the director of the center where the institutional educational measure is executed and listens to the minor, his parent, adoptive parent or guardian, lawyer defense counsel, prosecutor and probation service. Based on the reconsideration of the decision, the court may: (a) continue the further execution of the educational measure, (b) terminate it, suspend the further execution of the educational measure, (c) replace it with a lighter educational measure and (d) to issue a decision so that the imposed measure is not executed.

The Juvenile Justice Code has also provided for mandatory treatment measures³⁴, which can be imposed on juvenile offenders, under the conditions set out in the Criminal Code of Kosovo, which criminal offenses have been committed in a state of mental incapacity, reduced mental capacity and depending on drugs and alcohol. The measures that can be imposed on juvenile offenders who have committed a criminal offense in a state of mental incapacity or in a state of diminished mental capacity are: (a) Compulsory psychiatric treatment with detention in a health care institution, and (b) Compulsory psychiatric treatment in freedom. As for juvenile offenders who are addicted to drugs or alcohol, the court may order treatment of compulsory rehabilitation in a health institution or at large³⁵.

The Juvenile Justice Code provides for several types of main sentences, additional sentences and alternative sentences that may be imposed on juvenile offenders. The main punishments that can be imposed on minors are: (1) Fines; (2) Orders for work for general benefit and (3) Imprisonment for juveniles³⁶.

When the court deems it reasonable, the juvenile offender, together with the main sentence, may impose an additional sentence in accordance with Articles 54-62 of the Criminal Code of Kosovo, which are: (1) Fines; (2) Removal of the right to be elected; (3) Prohibition of exercising functions in public administration or public service; (4) Prohibition of the exercise of a profession, activity or duty; (5) Prohibition to drive a vehicle; (6) Obtaining a driving license; (7) Obtaining the item; (8) Order for publication of the judgment and (9) Expulsion of a foreigner from the territory of Kosovo³⁷.

The Juvenile Justice Code also provides for the possibility that in cases when the court imposes juvenile imprisonment for minors up to two (2) years or the measure of sending to an educational or correctional educational institution up to two (2) years,

³³ Ibid, article 127.

³⁴ Juvenile Justice Code, Article 38.

³⁵ Criminal Code of Kosovo Article 77, par. 1. and par. 2.

³⁶ Juvenile Justice Code, Article 7, paragraph 2.

³⁷ Criminal Code of Kosovo, Article 54, par..2.

the court may impose a suspended sentence on him in accordance with the Criminal Code of Kosovo³⁸.

The criminal prosecution against the juvenile perpetrator of the criminal offense is exercised exclusively according to the principle of officiality. The state prosecutor initiates the preparatory procedure against the juvenile based on the information obtained from the criminal report of the police or from other sources if there is a grounded suspicion that the juvenile has committed a criminal offense. For criminal offenses which are prosecuted according to the proposal of the injured party or according to the private lawsuit, the public prosecutor can initiate the procedure only if the proposal for initiating the procedure by the injured party within three months from the day when he learned that the criminal offense was committed.³⁹

The state prosecutor initiates the preparatory procedure with a ruling. The state prosecutor may suspend the prosecution of a juvenile for a criminal offense punishable by a fine or imprisonment for up to three years or for a criminal offense committed by negligence punishable by up to five years in prison, with the exception of those which bring death as a consequence, and give him the measure of diversity⁴⁰.

After the completion of the preparatory procedure, the state prosecutor may submit the reasoned proposal to the juvenile court for the imposition of an educational measure or punishment. Decisions in juvenile proceedings are rendered in the form of a judgment and a judgment. The educational measure imposed by execution is executed after the court decision becomes final and when there are no legal obstacles for their execution, the final decision is sent by the court to the institution or individual for execution within three days from the day the decision becomes final⁴¹. The Probation Service verifies the execution of educational measures.

The role and importance of the Kosovo Probation Service

The Kosovo Probation Service plays a key role in the execution of educational measures. The Kosovo Probation Service plays a major role in preparing the social survey⁴² during the criminal proceedings against the juvenile, both before the commencement of the preparatory proceedings and during its conduct. In such cases, before deciding not to initiate criminal proceedings, the public prosecutor may request the Kosovo Probation Service to prepare a social survey for the juvenile. In cases when the preparatory procedure begins against the juvenile, the Kosovo Probation Service at the request of the prosecutor, juvenile judge or juvenile court prepares the social survey for the juvenile.

The Kosovo Probation Service participates in court hearings, presents its views on the re-socialization of juveniles who have committed criminal offenses. The Kosovo Probation Service has the right to propose to the court the educational measure

³⁸ Juvenile Justice Code, Article 7, paragraph 5.

³⁹ Sahiti, Ejup. *Criminal Law Procedure*, Prishtinë, 2005, pg.258.

⁴⁰ Juvenile Justice Code, Article 17, paragraph 1.

⁴¹ Ibid, article 87 par.1.

⁴² The social survey includes data on the age of the minor and psychological development, family biography, biography and circumstances in which the juvenile lives, school level, educational experience and any other relevant data, (Juvenile Justice Code, Article 8 , par.2.).

against the delinquent juvenile or its termination, when during the supervision of their realization it ascertains that the positive effect of the imposed measure has been achieved, respectively to propose other measures when assessing that such a measure did not bring positive results in the re-socialization of the juvenile⁴³. In the treatment of delinquent juveniles, the Kosovo Probation Service cooperates with the custodial body and with public organizations. The Probation Service located in the territory where the juvenile has permanent or temporary residence is responsible for the execution of the educational measure.

The Probation Service cooperates with those institutions of public character, which provide educational programs, monitoring during the performance of special obligations in institutions and which provide work that is in accordance with the psycho-physical abilities of the juvenile offender⁴⁴.

The Probation Service performs the execution of special obligations which are imposed in addition to the educational measures of increased supervision in cooperation with various public organizations, with which it concludes agreements for the execution of these special obligations.

The custodial body has a specific role to play in enforcing increased oversight measures and in providing support to juveniles whose parents cannot fulfill their role. If the child is under the age of fourteen at the time of the commission of the offense, he or she will not be prosecuted if the proceedings are initiated immediately, and the prosecutor shall immediately notify the custodial body of the case which must be dealt with by the family and the minor address the root causes and prevent recurrence⁴⁵.

The custodial body plays a key role in assisting the court by providing information that is important to help the court make the right decision. The custodial body participates in the main trial, has the right to present professional views and to propose to the court the educational measure which is more appropriate to be imposed on the juvenile to achieve his re-education. The custodial body is competent to execute the educational measure - increased supervision by the custodial body and reports to the court every three (3) months on the course of execution of such measure. The custodial body provides care to minors who leave the institution after suffering any educational-institutional measures.

Educational-correctional institution for juveniles role and importance

The educational-correctional institution is a semi-open and open type correctional institution, in this institution juveniles are provided with protection, assistance and supervision, for the purpose of their education and training. During the stay in the educational-correctional institution of the juveniles, the basic conditions for primary education and vocational training must be provided.

During the stay in the institution, minors have the right to visit the family without

⁴³ Ministry of Labor and Social Welfare, Institute of Social Policy. Juvenile delinquency in Kosovo in the period 2003-2004. Prishtina, 2005, p.56.

⁴⁴ Annual Bulletin of the Kosovo Probation Service 2006, p. 14.

⁴⁵ Guidelines for Social Workers, p. 7. This publication was published with the assistance of the European Union, Prishtina, 2006.

restrictions, they have the right to keep exchange letters with family members and other persons, they have the right to receive unlimited packages, during their stay in the institution they are obliged to work in order to create work habits and to be able to live independently after leaving the institution⁴⁶.

In the institution with juveniles work experts in various fields such as psychologist, lecturer, social workers, doctors, lawyer, criminologist, penologist, etc. Minors in the educational-correctional institution are classified into groups according to age, gender, level of bio-psychic development, etc. Persons who have stayed in the educational-correctional institution for more than one year, are entitled to annual leave up to 30 days.

Conclusions

Juvenile criminal justice in Kosovo is regulated by the Juvenile Justice Code which contains provisions of a material, procedural and criminal nature of the execution of criminal sanctions. This Code has accepted the most modern solutions of criminal justice for juveniles, which in the legal system of our country are presented for the first time. In this context, envisaging the mediation procedure as an extrajudicial procedure which is expressed only when there is free will and the participation of the juvenile perpetrator and the injured party, in order to return the normal relations between the juvenile and the injured party.

The Juvenile Justice Code has provided for diversity measures which are a type of non-criminal measures that can be imposed on juvenile offenders. These measures may be applied in cases of minor criminal offenses punishable by a fine or imprisonment of up to three years or negligent criminal offenses punishable by up to five years in prison, except of those which result in death. The imposition of these measures aims to prevent the development of criminal proceedings against the juvenile whenever such a thing is possible, the rehabilitation and reintegration of the juvenile into his community in order to prevent recidivist behavior.

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⁴⁶ Halili, Ragip. *Penology*, Prishtinë, 2005, pg. 265.