

## **Alternative measures of diversion: A new model for the treatment of juvenile offenders**

**(Albania case)**

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### **Abstract**

Alternative measures of diversion from criminal prosecution represent a new model for the treatment of juveniles in conflict with law in Albania. The implementation of this legal institute within the Albanian legislation aims at the reintegration of the juveniles and treatment into the community as much as possible.

This paper will enable a critical analysis of the alternative measures of diversion as one of the innovations brought by the legal reform in the juvenile justice system. The paper will identify and provide answers to the most important legal issues related to the alternative measures of diversion from criminal prosecution and punishment. The analysis will be focused on the legal framework, the aspects of practice and the activity of those structures responsible for the implementation of the alternative measures of diversion from criminal prosecution. To understand the necessity of application of this institute, international standards in this field and the way they are reflected in the Albanian legal system will be referred to.

More specifically, the paper aims to:

- Highlight the importance of alternative measures of diversion from criminal prosecution as a novelty matter in the field of juvenile criminal justice in Albania and their impact on the social integration and protection of juveniles.
- Analyse the content and the procedures of the implementation of alternative measures of diversion from criminal prosecution with reference to the legal framework, with a special focus on the Juvenile Criminal Justice Code (JCJC).
- Identify issues related to the current legal framework and the institutional infrastructure governing alternative measures of diversion from criminal prosecution.
- Provide concrete conclusions and proposals regarding the improvement of the legal and institutional framework, as well as the increase of access of juveniles to this institute in accordance with international standards set out in this field.

**Keywords:** Juveniles, alternative measures of diversion, restorative justice, mediation, criminal proceedings.

### **1. Introduction**

Alternative measures of diversion from criminal prosecution constitute a legal remedy that enables the exclusion of juveniles from the criminal prosecution. It is described as a scheme whereby offenders (typically juveniles or mentally disordered offenders) are sometimes referred to sources of help or treatment-type interventions

as an alternative to prosecution (Robinson, Crow, 2009). The main purpose of alternative measures is that the juvenile offender is not exposed to criminal proceedings and stigmatized, as well as criminal sanctions are not imposed (Salihu, 2005). Diversion from the criminal prosecution is considered as the first law intervention in the criminal procedure that does effectively guarantee the implementation of the best interests of the child, since this does not allow the continuance of criminal proceedings against the juvenile with all its effects (Merkaj, 2020).

This institution sanctioned in the Albanian legislation came as result of a long process related to the justice system reform. Albania was involved in this important reform within to implement its commitments in the framework of the European integration. The most important product of the reform in the field of juvenile criminal justice was the drafting of the JCJC adopted by law no. 37/2017, which provided, for the first time, a comprehensive legal framework in the field of juvenile justice in Albania.

A novelty brought by the JCJC was that, for the first time, alternative measures of diversion from criminal prosecution and punishment for juveniles were introduced and provided in the Albanian legislation. This brought a positive impact considering that the criminal justice system aimed towards a punitive approach to children in conflict with the law before the JCJC entered into force. Even before the JCJC came into force, there was a growing trend towards the implementation of alternatives to imprisonment for the juveniles expressing the awareness of the criminal prosecution bodies, courts, and prosecutors regarding the importance to not place juveniles in detention facilities and to apply other measures different from the imprisonment (Mustafaraj, 2017).

Article 14 of JCJC provides for the principle of priority of the alternative measures of diversion from criminal prosecution as part of the general principles applied to the juvenile criminal justice. The importance of these alternative measures could be noted by the fact that the decision of the prosecutor regarding the alternative measures of diversion from criminal prosecution will be part of the mandatory data elements of the Integrated Juvenile Criminal Justice Data System adopted by the Decision of the Council of Ministers No.149, dated 20.3.2019. Currently, this important system is still under the process of data collection.

## **2. Diversion from criminal prosecution as an international standard and a need conditioned by the reality**

The principle of exclusion from formal criminal proceedings through using appropriate alternative measures constitutes one of the most important standards within the international juvenile criminal justice field. Such principle has been adopted and properly provided in the most important legal acts concerning juvenile justice.

In the first place, the Human Rights Council Resolution no. 10/2 requires states to respect the international standards of fundamental rights and freedoms, and, to adhere to the principles and provisions of the Convention on the Rights of the Child (CRC) in the field of juvenile criminal justice. Pursuant to point no. 11 of the United Nations Resolution no.1997/730, states are urged to reflect the provisions of the CRC

and the United Nations standards for the juvenile justice in their internal state policies and legal reforms. States are required to establish an adequate system to guarantee the rights of the child and prevent the violation of children's rights, as well as to promote a sense of dignity and respect for the age, degree of development and their right to participate in the society life.

The CRC, as the most important instrument in the field of juvenile justice, requires states parties, whenever appropriate and desirable, to take measures dealing with children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected (article 40/3/b of CRC). By interpreting this article of CRC, the Committee on the Right of Child in Comment No. 10 (2007) calls on the States Parties to promote measures for dealing with children alleged as, accused of, or recognized as having infringed the criminal law without resorting to judicial proceedings.

The use and application of appropriate measures to deal with children in conflict with the law enabling the diversion from the judicial proceedings is also provided by rule 11 of the Beijing Rules, which does recommend that *"Considerations shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority"*. Further, the development of the diversion from criminal prosecution or other alternative initiatives to the classical criminal justice systems are also suggested by the Recommendations no. (87) 20 of the Committee of Ministers with the aim to avoid the resort to criminal proceedings for young offenders.

The European integration process promotes and imposes the observance of international standards during the juvenile justice criminal proceedings. Starting from the year 1990 and so on, Albania has ratified various international legal agreements concerning human rights and rights of juveniles. In line with the constitutional framework of Albania, any international agreement that is ratified by the Parliament becomes part of the internal legal system with binding force. Among others, the CRC is one of the most important international legal acts that has been adopted by the Albanian Parliament through the law no.7531 dated 11.12.1991.

In addition, other important legal acts in the field of juvenile justice, such as: the recommendations of the Council of Europe, or other acts adopted by the United Nations, have been later implemented into the Albanian legal system following the accession of Albania to the Council of Europe and the United Nations Organization. More recently, the implementation of this institute took on a special significance during the pandemic situation caused by COVID-19. Namely, we faced a major challenge in dealing with juveniles deprived of their liberty during this emergency state period. Although less affected, children were not immune to the virus and young offenders were part of the most vulnerable categories within the criminal justice system. The implementation of the health protocols brought as results the restriction of some fundamental rights such as: the right to keep contact with the family, the group treatment, or the right to participate in recreational and cultural activities. In this direction, several organizations defending children's rights in Albania raised their concern. Different studies conducted by OSCE have found that it was quite difficult to maintain the physical distancing inside the prisons /detention facilities in Albania. In to prevent the spread of the coronavirus, the communication of the prisoners with

their family members was realised by video calls and online meetings through Internet. (OSCE, 2020).

UNICEF, which is with no doubt one of the most influential organizations in monitoring the rights of children in Albania, has strongly recommended that the resort to formal legal proceedings should be avoided and alternative measures shall be applied to the imprisonment measure during the ongoing pandemic situation of COVID-19 (UNICEF, 2020).

Considering the measures taken to prevent the spread of the coronavirus, the implementation of alternative measures to deprivation of liberty has been recommended even by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT, 2020).

Also, even though Covid-19 is not specifically mentioned, the European Human Rights Court has further developed its jurisprudence about the matters concerning the compliance with the minimum standards in prisons. A non-compliance with the minimum standards in prisons has been interpreted as a violation of article 3 of the European Convention on Human Rights. In the end of the judgement for the case no. 55104/13, *Cătălin Eugen Micu v. Romania*, trial of 5 January 2016, the court has emphasized that the spread of communicable diseases should be a public health concern, especially in the prison premises. Albania has been also involved in similar cases as regards to the matter of medical treatment in the context of article 3 of the ECHR. So, in the judicial case *Strazimiri v. Albania* (Request No. 34602/16, 21 January 2020), the court decided that the lack of medical care while being detained in the prison hospital, combined with other inappropriate conditions, constitutes a violation of article 3 of the Convention (AIRE Centre, 2020).

The legal system of a country shall necessarily respond to the needs of juvenile offenders and enable them to have an adequate treatment for ensuring the respect of fundamental rights and freedoms. In this context, the implementation of alternative measures does not only serve for the integration of juveniles into society, but it helps to guarantee their health in usual and extraordinary emergence situations as well.

In view of the international standards set out for this institute and the corresponding needs imposed by the reality, the paper will be further focused in explaining how this principle of diversion from criminal prosecution and punishment is provided in the JCJC. A special attention will be then reserved to the main issues and problems faced in this regard.

### **3. Alternative measures of diversion from criminal prosecution and punishment in the Juvenile Criminal Justice Code (JCJC)**

Article 2 of JCJC defines the diversion from criminal prosecution as “an alternative measure for not initiating, suspending or terminating the prosecution of a child in conflict with the law”. Diversion from criminal prosecution and punishment through alternative measures is more specifically provided in Chapter VII of the JCJC (Articles 55-72). The provision of this institute is one of the novelties brought by the JCJC, and furthermore, different types of alternative measures of diversion have been introduced.

Apart from the criminal mediation, which is an alternative measure regulated by special law on the mediation since the year 1999, all the other types of alternative measures are new to the Albanian legislation. The various types of alternative measures enable the prosecuting authorities to assess the circumstances of the case and choose the measure which is most adequate and appropriate to satisfy both the needs of the juvenile in conflict with the law and the victim.

The types and content of alternative measures provided in the JCJC are completely in line with the international standards set out in the juvenile justice system. Most of the said alternative measures aim to not affect the regular activity of juveniles and make possible for them to develop their rights in the same social environment. The competent authorities dealing with the application of alternative measures are both the prosecutor and the court.

In line with the main objective of this institution, the new JCJC empowers the prosecutor to apply and dispose alternative measures of diversion from criminal prosecution. The prosecutor is thereby competent to dispose these alternative measures without initiating the criminal proceedings against the juvenile, or in case the criminal proceedings have been initiated, the prosecutor has still the same power until the criminal case has not been brought on trial. According to article 56/2 of JCJC, the prosecutor may dispose alternative measures of diversion from criminal prosecution at his own initiative or by the request of the juvenile in conflict with the law and/or his representative. To ensure the best interest of the child and make possible that these alternative measures are settled even during the trial stage, the JCJC has provided even the possibility for the court itself to dispose these measures at any judicial phase until there is no final decision rendered.

As a matter of procedural law, the application of alternative measures of diversion from criminal prosecution by the prosecutor constitutes a ground for not initiating criminal proceedings against the juvenile or terminating these proceedings in case they have initiated.

By interpreting article 55, point 3 of JCJC, which determines the criteria and conditions for the implementation of alternative measures of diversion, the legal scholars have believed the implementation of alternative measures of diversion should take precedence over the criminal prosecution proceedings (School of Magistrates, 2021). The JCJC does not recognize the Police Office as a competent authority in this field and alternative measures of diversion from criminal prosecution could not be absolutely disposed by the police officers. In respect of this issue, Beijing Rules (Rule 11.2) requires all the authorities dealing with juvenile cases, including the police, the prosecution, or other agencies, to be empowered to dispose of such cases at their discretion and without resource to formal hearings. With reference to the international standards set out in this field, we are of the opinion that the increase of the discretionary power of the police would serve to keep juveniles away from the criminal system since the earliest moments of their contact with the criminal system.

#### **4. Criteria and conditions for the implementation of the alternative measures of diversion from criminal prosecution**

The application of alternatives measures of diversion from criminal prosecution depends on the conditions and criteria set forth in article 55 of JCJC. Some of these conditions and criteria are imperative, while other ones are left to the discretion of the prosecuting authority to be assessed.

So, the following conditions and criteria are imperative:

*The diversion from criminal prosecution shall be applied only if there are reasonable suspicions that the juvenile has committed a criminal offense, for which a sentence of imprisonment up to 5 years or a fine penalty is provided.*

This constitutes an imperative condition/criterion provided by law, which obliges the prosecution in charge of the proceedings to refer to the corresponding law provision in the Criminal Code and confirm the maximum penalty provided for the criminal offense alleged to have been committed or committed by the juvenile.

*The diversion from criminal prosecution shall not be applied to recidivists.*

The legislator has included the recidivism behaviour of the juvenile in the list of the imperative conditions and criteria to be assessed before disposing on the alternative measures. Point *c* and *d* of article 55 of JCJC has further extended the meaning of the term “recidivist” by including not only those juveniles who have been previously convicted, but even those juveniles who have been denounced for a criminal offense and others who have been already subjected to an alternative measure of diversion from criminal prosecution. In this case, scholars have rightly raised the question whether the purpose of this provision has been to equalize a criminal denunciation with a final decision? (Merkaj, 2020).

*The measure of diversion from criminal prosecution shall be applied only if the juvenile admits that he/she has committed the offense and gives his voluntary consent for the application of the alternative measures of diversion.*

Based on the principle of the best interests of the child and considering the interests of juveniles to participate in the process, the legislator has decided to subject the application of alternative measures of diversion from criminal prosecution to the consent of the juvenile as a sign of the free expression of his/her will. This is further formalized in law, namely in article 59/1 of JCJC, whereas the alternative measure of diversion from criminal prosecution is required to be subjected to the written consent of the juvenile. Moreover, this is once more reinforced in the agreement which is concluded between the prosecutor and the juvenile pursuant to the Order of the Minister of Justice no. 7642, dated 05/07/2018 “On determining the elements of the agreement for the implementation of the measure of diversion and/or mediation”.

When taking the decision whether to dispose the alternative measures of diversion, the competent judicial authorities assess even some other discretionary conditions and criteria such as: whether the measure of diversion is the best option and possibility to correct the juvenile’s behaviour and if there is or not a public interest to initiate/continue the criminal prosecution proceedings.

In accordance with article 55 (2) of JCJC, other discretionary conditions and criteria that are assessed by the prosecutor include: the highest interest of the child, the

relevance of the criminal offense committed and the criminal punishment provided for that offense, the age of the juvenile when committing the offense, the degree of guilt, the damage caused, the intimidating effect of criminal prosecution, the juvenile's behaviour after the criminal offense was committed, as well as the individual assessment report for the juvenile.

## **5. Analysis and reflection on the types of alternative measures of diversion from criminal prosecution**

Alternative measures of diversion from criminal prosecution and punishment are provided in article 62 of JCJC. By analysing this law provision of JCJC, we could identify some of the most important features of this legal institute:

- One or more measures may be simultaneously applied and disposed to the juvenile.
- In any event, the juvenile cannot be subjected to a more severe measure of diversion than the minimum criminal sentence provided for the related criminal offense.

### **5.a Restorative justice and/or mediation programs**

Mediation can be considered as the first alternative measure of diversion receiving a special attention by the legislator. This conclusion can be reached from the study of the provisions governing the implementation of mediation programs and restorative justice as alternatives to diversion. Mediation proceedings have been adopted by law no. 8465, dated 11.03.1999 "On Dispute Resolution through Mediation", which has been subjected to several amendments until a completely new law entered into force. The Albanian law on mediation limits the application of this institution only to a restricted category of criminal offenses such as: the criminal offenses that are prosecuted at the request of the injured party/the victim under articles 59 and 284 of the Code of Criminal Procedure.

Mediation, as an alternative measure of diversion from criminal prosecution of the juveniles, constitutes a very positive element provided by JCJC since the application of this institute enables to terminate the criminal prosecution and/or trial proceedings for other additional cases in comparison of those provided by law no. 10385, dated 24.02.2011 "On mediation in resolving disputes". Article 64 of JCJC, which provides the mediation proceedings concerning juveniles in conflict with the law, does fill a gap in the current legislation on mediation as far as no specific proceedings have been provided for juveniles even after the new law amendments. The said law provision refers to the mediation programs intended for juveniles and the related specific proceedings that are applied in such case.

If parties agree on the application of the mediation institute to settle a dispute, JCJC provides a deadline of 45 days for them to reach an agreement. If such an agreement is reached, the eventual judicial case will be terminated. Other aspects governing the mediation proceedings are duly governed by law on mediation. Article 63 (6) of JCJC has also introduced a new type of mediation, that is, the family or group mediation

including the participation of the victim and the juvenile in conflict with the law, their relatives, other persons from the social community and/or representatives from the public agency for the protection of juveniles.

Additionally, the implementation of restorative justice programs is also of particular importance as it is thought that restorative justice is being widely used today both in theory and in practice, thus becoming a global movement (OSCE, 2009). Thus, the restorative justice is not only a principle of juvenile justice, but it does now represent an integral part of the juvenile justice legislation in Albania.

Pursuant to article 63 (5) of JCJC, restorative justice measures may include the participation of the juvenile in a certain program of diversion and mediation, public interest work, and/or any other program that may serve to replace the consequences deriving from the commitment of a criminal offense. These are the most advisable programs to be implemented because the delivery of services in youth's natural environments enhances family cooperation, permits more accurate assessment of identified problems and of intervention results and promotes long-term maintenance of therapeutic changes (Craig, Dixon, Gannon, 2013).

### **5.b Youth and family counselling**

Article 65 of JCJC does also provide the youth and family counselling as a particular measure that can be disposed as an alternative to the criminal prosecution. Counselling means that the juvenile and/or his/her family is/are informed that he/she has committed a harmful, dangerous offense which constitutes a criminal offense and has negative consequences for the victim and the community. The court disposes this measure when it is considered sufficient to positively influence the juvenile's behaviour and protect his/her interests. The implementation of this measure is entrusted to the Unit for Protection of the Rights of the Child and/or to the social or psychological services before the local units (municipalities). To achieve a successful implementation of this measure, it is required an effective coordination between the prosecution authorities and the said responsible services.

### **5.c Verbal and written warning**

By using the verbal and written warning as an alternative measure in accordance with the articles 66 and 67 of JCJC, the competent authorities provide the juvenile with the necessary explanations on the damage caused by his actions and the consequences to come if the criminal offense is committed again. The measure disposed by verbal warning is recorded in a special register, the form of which is duly determined by Order no. 4950, dated 02/05/2018 *"On determining the form of the special register of the alternative diversion measure "Oral Warning"*. In case a written warning measure is disposed by the competent authorities, all the related explanations given to the juvenile shall be reflected in a record. Again, the format of this writing warning is determined by a similar Order with no. 4951, dated 02/05/2018 *"On determining the form of the special register of the alternative diversion measure "Written Warning"*.

As regards for the above measures, we may conclude that there is no difference in

their content or consequences. Therefore, it would be more reasonable to merge both the verbal and written warnings in a single alternative measure as this would be more convenient to achieve the objective of avoiding the juvenile to be engaged again in unlawful acts. Furthermore, the court practice has evidenced that judges have mainly applied the written warning measure.

#### **5.d Binding measures**

The verbal and written warnings are the most simple and easiest measures because they enable the treatment of the juvenile without bringing any consequences or conditions. However, the educational needs of the juvenile require the judicial authorities to evaluate whether the verbal and warning measures could be sufficient to prevent the criminal behaviours. For this purpose, the legislator has provided other possible alternative measures in article 68 of JCJC and binding measures represent one of these alternatives. So, the following binding measures may be disposed to the juvenile under article 68 (1) of JCJC:

- a) To not contact/meet a certain person.
- b) To not go/visit a certain place.
- c) To not change the residence.
- d) To not leave the house during a certain period/ time.
- e) To not leave from a certain place or the administrative region without permission.
- f) To not perform any other action that may hinder the resocialization and rehabilitation of the juvenile.

Moreover, article 68 (2) of JCJC has also provided other binding measures that the court may dispose in favour of the juvenile offender:

- a) To start or resume studies in an educational institution.
- b) To start working under the consideration and in respect of the provision of Labour Code.
- c) To attend an educational, correctional and/or medical program.
- d) To fulfil other obligations that will strengthen the resocialization and will prevent the recidivism of the juvenile.

The above binding measures are assessed on a case-by-case basis by the Probation Service and/or the Child Rights Protection Unit. After having analysed and interpreted the literal meaning of this provision, it remains still unclear whether binding measures cover those stated in point 1, point 2, or both.

In terms of practical implementation of the law, the formulation of this article does not provide us with a correct answer to the question whether the competent authority may dispose more than one of these measures? Is it possible for the court to dispose on the application of binding measures stated in point no. 1 in combination with those stated in point no. 2? Probably, a reformulation of this law provision would serve to have a more accurate answer and solve this practical problem as well.

#### **5.e Juvenile placement**

Under the interpretation of article 69 of JCJC, juvenile placement means that

juveniles may be obliged to attend an educational and/or correctional programs. This alternative measure is generally applied in those cases when the parent or legal custody of the juvenile in conflict with the law is considered as not sufficient to fulfil the purpose aimed by binding measures. Under such circumstances, the competent authorities may decide that the juvenile needs to be placed under care family and they are supervised regularly by the specialized service.

The above may be realised in two ways:

- (i) It might be not necessary for a complete and permanent separation of the juvenile from his previous environment.
- (ii) The juvenile may need to be placed under 24 hours surveillance or stay at the specialized service centre during all day.

In the second case, the specialized service is provided by the disciplinary and/or educational centres established under child rights legislation. The juvenile placement may be disposed for a period varying from six months to two years.

Although the said provision refers to law no. 18/2017 "On the rights and protection of the child", yet no clear definition is provided regarding the specification of disciplinary and/or educational centres by the law. For that reason, the legislator must first specify and define the types of specialized programs or structures that should be established to implement these alternative measures: centres, multifunctional social centres, disciplinary centres, etc. This would need the Parliament to adopt a new amendment to the said law.

According to the data reported on the official website of the Ministry of Justice, the Albanian Ministry of Justice has signed several cooperation agreements with at least 34 municipalities within the country to build the infrastructural and institutional framework for the implementation of alternative measures of diversion (Ministry of Justice, 2021). The main purpose of these agreements consists in the work coordination between the social structures of municipalities and the specialists of the Albanian Probation Service. The latter will follow all the progresses realised in the cases dealing with juveniles in conflict with the law, whom have been subjected to alternative measures of diversion from criminal prosecution and punishment. Multifunctional social centres will be established at the municipality level and will serve for the implementation of this alternative measure provided by JCJC.

## **6. Legal consequences of completing the alternative measures of diversion from criminal prosecution**

A juvenile completing an alternative measure of diversion from criminal prosecution will not be considered as convicted and no criminal record will be stored on behalf of him/her. Pursuant to article 70 of JCJC, the criminal proceedings will terminate once the alternative measures of diversion are completed.

But a problematic issue arises in case that the juvenile does not fulfil the conditions and obligations imposed by the alternative measures of diversion. Should this automatically lead to the resumption of criminal proceedings?

In this regard, we would like to refer to the rule 10 and rule 84-86 of Recommendation No. (92) 16 "On European rules concerning sanctions and community measures": The

failure to fulfil the conditions and obligations imposed by the measures of diversion does not constitute a criminal offense and this failure will not automatically lead to the resumption of criminal proceedings.

The final decision rests with the Prosecutor, but the opinion provided by the Probation Service should be also assessed since the latter is the competent authority to supervise whether the juvenile has complied with the conditions and obligations imposed by the alternative measure of diversion. Currently, the role of the Probation Service has been further strengthened and its powers have been enacted in the JCJC and the Council of Ministers Decision no. 148, dated 20.03.2019 "On the procedure applied by the Probation Service in case of non-compliance with alternative measures of diversion ". In any case, the decision is rendered only after a hearing session in the presence of the juvenile is held. In this hearing session, the juvenile is entitled to explain the reasons why certain conditions or obligations imposed by the alternative measures might have not been fulfilled.

In addition, upon article 72 (4) of JCJC, the Prosecutor is entitled to:

- a) Revoke or uphold the decision about the alternative measures of diversion.
- b) Change the type and kind of the alternative measures of diversion.
- c) Extend the agreement period.

From the above, only the revocation of the decision leads to the resumption of the criminal proceedings. In case the decision is revoked, the court will review the actions taken by the juvenile to fulfil conditions and obligations imposed by the alternative measure of diversion.

## Conclusions

The principle of diversion from criminal prosecution and punishment is provided in the JCJC by means of the alternative measures and this constitutes a positive development towards the fulfilment of the international standards dealing with the treatment of juveniles. Although the JCJC entered into force on January 1, 2018, yet some legal regulations have not been still implemented because of the problems and shortcomings linked with the institutional infrastructure and the miscoordination between the competent structures. The normative acts have been drafted to implement the law in its entirety, but the process to build the institutional infrastructure has not been completed yet. The content of the provisions governing alternative measures of diversion from criminal prosecution needs to be improved and clarified. Also, several measures should be taken to enable the successful implementation of the alternative measures of diversion from criminal prosecution, including but not limited to:

- Improving the operation and efficiency of all the responsible structures engaged in the implementation and supervision of alternative measures of diversion.
- Providing trainings for the Probation Service employers and other competent authorities involved in the process of the implementation and supervision of alternative measures of diversion.
- Improving the supervision system of alternative measures of diversion by specifying the powers of the competent authorities in accordance with the provisions laid down in law no. 18/2017 "On the rights and protection of children".

- Improving the system of services for children, including the system of mediation for the victims of abuse, the custody service, the community services, and all other related services enabling the reintegration of juveniles into society.
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- Applying alternative measures of diversion (under certain conditions) even for the category of young adults in the age group of 18-21 years.

## References

- Comity on the Right of the Child, Comment No. 10 (2007) "Children's rights in juvenile justice", <https://www.refworld.org/docid/4670fca12.html>.
- Council of Ministers Decision, no.149, dated 20.3.2019 "On the creation, organization, operation, characteristics of use and access of primary and secondary data and provision of information of the integrated juvenile justice data system".
- Council of Ministers Decision no. 148 dated 20.03.2019 "On the procedure applied by the Probation Service in case of non-compliance with alternative measures of diversion".
- Craig,L, Dixon,L, Gannon. Th, (2013), *What works in offender rehabilitation, An evidence-based approach to assessment and treatment*, UK, Wiley Blackwell Publication.
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, (2020, March 20), *Statement of principles relating to the treatment of persons deprived of their liberty in the context of coronavirus disease (COVID-19) pandemic*, <https://rm.coe.int/16809cfa4b>.
- Law no.7531, dated 11.12.1991 "On ratification of the Convention on the Rights of the Child".
- Law 8465, dated 11.03.1999, "On Dispute Resolution through Mediation".
- Law no. 7905, dated 21.3.1995 "Criminal Procedure Code".
- Law no. 10385, dated 24.02.2011 "On mediation in resolving disputes".
- Law no. 37/2017 "Juvenile Criminal Justice Code".
- Law no. 18/2017 "On the rights and protection of the child".
- Law No. 5/20120 "On Granting Amnesty".
- Mustafaraj, B. (2017), *Juvenile delinquency, criminological and juridical-criminal aspects*, Tirana, UET pres.
- Ministry of Justice (2020), *Monitoring Report January-September 2020, Sectional Strategy of Justice*, [www.drejtesia.gov.al](http://www.drejtesia.gov.al).
- Merkaj,T, (2020), *Commentary on the Code of Juvenile Criminal Justice interpreted by case law*, Tirana, MORAVA publishing house.
- Ministry of Justice, (2021) official website: ([drejtesia.gov.al/marrevshje-bashkepunimi-md-bashki](http://drejtesia.gov.al/marrevshje-bashkepunimi-md-bashki)).
- Normative Act No. 7, dated 23.03.2020 of the Council of Ministers "On the temporary release of prisoners for a period of three months".
- OSCE, (2009), *Probation Service Employee Handbook*, Tirana, Pegi publishing house.
- Order of the Minister of Justice no. 7642, dated 05/07/2018 "On determining the elements of the agreement for the implementation of the diversion measure and / or mediation".
- Order no. 4951, dated 02/05/2018 "On determining the form of the special register of the alternative measure of diversion of criminal prosecution" Written Warning".
- Order no. 4950, dated 02/05/2018 "On determining the form of the special register of the alternative measure of diversion of criminal prosecution" Oral Warning".
- OSCE, (2020, November, 18), *Human Rights in Deprivation of Liberty in the Covid-19 Pandemic, The Case of Albania*, Tirana.

<https://www.osce.org/sq/presence-in-albania/470817>.

Robinson, G, Crow, I. (2009), *Offender rehabilitation, theory, research and practice*, London, SAGE publication.

Resolution of Economic and Social Council 1997/730 of 21 July 1997, "Guidelines for action for children in the criminal justice system".

Resolution 10/2 of the Human Rights Council, of 25 March 2009, "On human rights in the administration of justice, especially juvenile justice".

Recommendation No. (92) 16 of the Committee of Ministers of the Member States "On European rules concerning sanctions and community measures".

Recommendation No. (87) 20 of the Committee of Ministers of the Member States "On the social response to juvenile delinquency".

Salihu, I. (2005), *Juvenile criminal law*, Prishtina, FINISH-OHCR.

School of Magistrates, *Commentary on the Code of Juvenile Justice*, ([www.magjistratura.edu.al](http://www.magjistratura.edu.al)).

The AIRE Centre & Civil Rights Defenders, (2020), *Covid\_19 and the impact on human rights, Overview of the jurisprudence of the European Court of Human Rights*, Tirana,

<https://www.kmd.al/wp-content/uploads/2020/10/covid-guide-alb>.

United Nations *Standard Minimum Rules for the Administration of Juvenile Justice*, (Beijing Rules), (1985).

UNICEF, (2009, July, 27), *Assessment of juvenile justice reform achievements in Albania*, Tirana,

<https://childhub.org/en/child-protection-online-library/assessment-juvenile-justice-reform-achievements-albania>.

UNICEF & The Alliance for Child Protection in Humanitarian Action, (2020, April), *Covid and children deprived of their liberty*, Tirana,

<https://www.unicef.org/albania/reports/covid-19-and-children-deprived-their-liberty>.