Procedural safeguards of accused or suspected children: improving the implementation of the right to individual assessment

IA-CHILD

JUSTICE PROGRAMME, JUST-AG-2017/JUST-JACC-AG-2017

NATIONAL REPORTS:

Lithuania, Croatia, Greece, Cyprus

October, 2019.

Procedural safeguards of accused or suspected children: improving the implementation of the right to individual assessment

IA-CHILD

JUSTICE PROGRAMME, JUST-AG-2017/JUST-JACC-AG-2017

NATIONAL REPORT
LITHUANIA

Authors of the Report:

Dr. Rūta Vaičiūnienė
Dr. Simonas Nikartas
Vita Povilaitytė
Law Institute of Lithuania
Lithuania

October, 2019.
Vilnius, Lithuania

1. JUVENILE JUSTICE SYSTEM IN LITHUANIA

1.1. Legal background and regulation of juvenile justice system in Lithuania

The Criminal Code (CC), **Administrative misdemeanours code (AMC)** and the **Law on Child Minimal and Moderate Care (LCMMC)** are main legal acts establishing penalties and/or measures for juvenile offenders. There are no special laws regulating criminal liability of juveniles. However **special chapter for juvenile's liability is provided in the CC**. The punishment process of juveniles is regulated by **Punishment Execution Code (PEC)** and **Probation Law**.

It is important to note that Lithuania has a dual system of legal liability for violations of law, consisting of criminal liability for offenses and administrative liability for minor offenses (administrative misdemeanours) such as minor theft, minor fraud (up to 150 Eur), minor hooliganism, minor drunk driving, prostitution and a wide range of other violations state established rules (e.g. ecological, transport and traffic, trade, storing of dangerous materials and other rules violations). Administrative liability has more lenient legal consequences compared with criminal liability. For example, there is no criminal record and there are no penalties related to liberty restriction.

Minimum age of criminal liability

Generally, a person can only be held responsible for a crime or misdemeanour if he or she has attained the age of 16. **Persons aged 14 or older can be found guilty of a number of specific offenses named under Article 13 of the Code of Criminal Procedure (CCP)**. These offences include murder; serious injuries; rape; sexual harassment; theft; robbery; extortion of property; destruction of or damage to property; seizure of a firearm, ammunition, explosives or explosive materials; theft, racketeering or other illicit seizure of narcotic or psychotropic substances; damage to vehicles or roads and facilities thereof (Art. 13 of CC). **The age of liability for administrative misdemeanours is 16** (Art. 6 of AMC).

Penalties and measures for Juvenile offenders

Lithuania has a rather large list of penalties and measures for children who commit offenses. A distinction should be made between (1) criminal penalties and reformative measures that are solely for the commission of criminal offenses; (2) administrative penalties and measures of administrative sanction for administrative offenses; (3) minimum and moderate supervision measures for offenses where the child is under criminal liability age or for offenses that do not constitute a criminal offense or an administrative offense (e.g. failing to attend the school). See the description of Lithuanian juvenile justice system below (Table No. 1).

Table No. 1 Juvenile justice system in Lithuania

Legal basis of the application of penalty or measure	Criminal offence	Criminal offence when minor: is released from criminal liability; probation is applied (suspension of sentence and conditional release from prison)	Administrative misdemeanour	1) Criminal offence/administrative misdemeanour when the person is under the age of criminal or administrative responsibility 2) An administrative misdemeanour, but no administrative penalty or administrative measure was imposed; 3) Failure to fulfil the obligation of a minor (under 16 years of age) to study	1) Criminal offence/administrative misdemeanour when the person is under the age of criminal or administrative responsibility and child's behavior danger to his or other person's life, health or property. 2) In cases where no positive change I child's behavior has been achieved during the period of minimum care (except violation of the obligation to study.
Penalties and measures	Criminal penalties	Reformative measures	Administrative penalties and administrative measures	Minimal care measures	Child moderate care
Institution which impose the penalty or measure	Court		Court	Municipal Administration and Child Welfare Commissions	Municipal Administration and Child Welfare Commissions with approval of Court
Institutions responsible for conduction of penalties and measures	Juvenile correction house (prison) Probation service (for liberty restriction, community service and most reformative measures) Socialization center (for reformative measure – placement to special reformative facility) Bailiffs (for fine) Other bodies and organizations		Police Other competent authorities	Schools, children and youth day care centers, health care institutions, other bodies and organizations	Socialization center

Institutions responsible for control of the enforcement of penalties and measures	Prosecutor Prison department under the Ministry of Justice	Police, municipality, other competent authorities	Municipal administration, municipal child welfare commissions
Coordinating Ministry	Ministry of Justice	Ministry of Justice Ministry of Internal Affair	Ministry of Education, Science, and Sports

Criminal Code (CC) regulation of Criminal liability of minors

The Article 80 of CC establishes purposes of Criminal liability of minors:

1) to ensure correspondence of liability to the age and social maturity of these persons;

2) to restrict the possibilities of imposition of a custodial sentence and broaden the possibilities of imposition of reformative sanctions against these persons;

3) to help a minor to alter his manner of living and conduct by co-ordinating a penalty for the committed criminal act with the development and education of his personality and elimination of reasons for the unlawful conduct;

4) to prevent a minor from committing new criminal acts.

Criminal penalties and reformative measures can be applied for juveniles who committed criminal offences. Children are subject to the same penalties as adult persons (with the exception of life imprisonment) such as custodial sentence, arrest (short-term custodial sentence), deprivation of liberty, community service.

The CC provides relatively shorter and more lenient sentences for minors compared to adults. The maximum duration of public service sentence for minors is 240 hours (480 hours for adults for crimes and 240 hours for criminal misdemeanours)

A minor may be fined between 5 and 50 MSL (for an adult, between 15 and 6000 MSL depending on the type of crime). The CC also stipulates that the fine may be imposed only to a minor who is employed or has property.

A juvenile can be sentenced to between five and forty-five days' of short term imprisonment (for adults, it range from fifteen to ninety days when a crime is committed and between ten to forty-five days when misdemeanour is committed).

The CC lays down special conditions for the imposition of a custodial sentence: firstly, the term of imprisonment of a minor may not exceed ten years; secondly, a juvenile may be sentenced by a court to a term of imprisonment where there is reason to believe that other types of punishment are not sufficient to alter the juvenile's criminal inclination or if the juvenile has committed a serious or very serious crime; thirdly, the CC reduces the minimum term of imprisonment for minors: under Article 91 of the CC, **the minimum sentence for a minor shall be half of the minimum sentence provided in a specific article of the CC, which would be imposed on an adult**.

Compared to adults, minors have more lenient conditions for suspension of custodial sentence (probation). A juvenile sentenced to one or more negligent offenses or imprisonment for a maximum of five years, for one or more intentional crimes may be sentenced by a court from one to three years.

This means that suspension of custodial sentence for juveniles is not limited to the gravity of crime: a suspended sentence **may also be imposed for a serious or very serious crime with a maximum term of imprisonment of up to five years.** Meanwhile, there is no possibility of custodial sentence suspension for adults who are guilty of serious or very serious crimes provided.
The reformative measures may be imposed on a minor who has committed a criminal misdemeanour or an offense and who has been released from criminal liability or punishment, as well as a minor who has been suspended or released from prison.

Reformative measures are means of criminal liability which are (1) imposed in case of release from criminal liability or penalty; (2) applied as obligations of probation. The Art. 82 of CC establishes that a minor who has committed a misdemeanour or a crime and has been released from criminal responsibility or a penalty, also a minor in respect of whom the execution of the sentence has been suspended or who has been conditionally released from correctional institutions on the grounds provided for in Chapter XI of the PEC **may be subject to the following reformative sanctions:**
1) a warning;
2) compensation for or elimination of property damage;
3) unpaid reformative work;
4) placement for upbringing and care with parents or other natural or legal persons taking care of children;
5) restriction on conduct;
6) placement in a special reformative facility.

A warning may be imposed upon a minor as an independent reformative sanction or in conjunction with other such sanctions. When imposing against a minor this reformative sanction, the court shall state to him in writing the possible legal consequences ensuing from the commission of new criminal acts (Art. 83). In Case Law warning is usually imposed as an additional measure to other reformative measures.

Compensation for or Elimination of Property Damage shall be ordered only when a minor possesses resources which he can independently dispose of or when he is capable of eliminating the damage by his own work. Property damage must be compensated for or eliminated by a person's own work within a time limit laid down by the court (Art. 84)

Unpaid reformative work shall be imposed for a period of 20 up to 100 hours to be performed at health care, curatorship, and guardianship or other state or non-state bodies and organisations, where work thereat may be of a reformative character. This measure can be applied only with consent of a minor (Art. 85). The Art. 85 of CC also provides an exception that unpaid work may not be imposed upon a minor when he is placed in a special reformative facility.

Placement for upbringing and care with parents or other natural or legal persons taking care of children shall be ordered for a period from six months up to three years, but no longer than after a minor reaches the age of 18 years. This measure according Art 86 of CC may be imposed in following cases:

1) the parents or other persons agree to bring up and take care of the minor, have no negative influence on the minor themselves, have a possibility to provide favourable conditions for the development of his personality and agree to provide the necessary information to the institutions supervising the execution of the above sanction;
2) the minor agrees that the indicated persons bring him up and take care of him and promises to obey them and behave properly.
Placement for upbringing and care with parents or other persons may be ordered for a minor as an independent sanction or in combination with other reformative sanctions. This sanction may not be imposed where a minor is placed in a special reformative facility (Art. 86).

Table No 2. Comparison of the length of criminal penalties for minors and adults.

The type of penalty	**The length of penalty for minors**	**The length of penalty for adults**
Custodial sentence	From 1,5 months to 10 years	From 3 months to 20 years
Suspension of custodial sentence (probation)	1 – 3 years	1 – 3 years
Arrest (short term custodial sentence)	5 – 45 days	10 – 90 days From 15 to 90 days for crimes; From 10 to 45 days for misdemeanours
Liberty restriction	3 months – 2 years	3 months – 2 years
Community service	1 – 12 months Not more than 240 of total time worked	1 – 12 months Not more than 480 of total time worked for crimes and 240 hours for misdemeanours

The restriction of conduct includes court-imposed obligations and prohibitions such as:

- to be at home at a certain time;
- to study, resume studies or take up employment;
- to acquire certain knowledge or learn prohibitions (traffic safety regulations, school student's regulations, etc.);
- to undergo a complete course of treatment against alcohol addiction, drug addiction, addiction to toxic substances or a sexually transmitted disease. This mandatory injunction shall be imposed at the request of parents or guardians subject to the consent of the minor;
- to participate in the social education or rehabilitation measures organised by state or non-state bodies and organisations;

- not to gamble;
- not to engage in a certain type of activities;
- not to drive a motor vehicle (motorcycle, self-propelled vehicle, etc.);
- not to visit the places that have a negative effect on the conduct of the minor, or not to communicate with the people who exert a negative influence on him;
- not to change his place of residence without giving a notice to the institutions supervising execution of this sanction (Art. 87 of CC).

A restriction on conduct may be imposed for a term from thirty days up to twelve months. The term of this sanction shall be counted in days and months. The court may impose upon a minor, at the request of the minor or other participants of criminal proceedings, also at its own discretion, other mandatory or prohibitive injunctions not provided for by the criminal law which, in the court's opinion, would have a positive impact on the conduct of the minor. A restriction on a minor's conduct may be imposed against the minor as an independent reformative sanction or in conjunction with other such sanctions. This sanction may not be imposed where a minor is placed in a special reformative facility.
It should be mentioned that there are **no diversion measures for juveniles** in Lithuania. The article 93 of CC provides the release of a minor from criminal liability: a minor who commits a misdemeanour, or a negligent crime, or a minor or less serious premeditated crime for the first time may be **released by the court from criminal liability** where he:
1) has offered his apology to the victim and has compensated for or eliminated, fully or in part, the property damage incurred by his work or in monetary terms; or
2) is found to be of diminished capacity; or
3) pleads guilty and regrets having committed a criminal act or there are other grounds for believing that in the future the minor will abide by the law and will not commit new criminal acts.
Having released a minor from criminal liability the court shall impose against him the reformative sanctions. As mentioned above reformative measures are imposed by court to a minor released from criminal liability.

Administrative responsibility measures
Administrative misdemeanours may be subject to administrative penalties and measures of an administrative nature for minors.
The AMC provides the following types of penalties:
1) warning;
2) fine;
3) public works (Art 23 of AMC).
The administrative measures are as follows:
1) deprivation of the special right granted to the person;
2) confiscation of property;
3) obligation to participate in alcoholism and drug prevention, early intervention, health care, resocialization, interaction with children, violent behavior modification or other programs (courses);
(4) a ban on attending public events (Art 27 of AMC).

The AMC does not provide for specific penalties or measures for minors. However, **it is possible for the court not to impose an administrative penalty or administrative measure on a minor and to apply for minimal or moderate supervision of a child** (Art. 43 of CC). The AMC (Art. 44) provides that a minor

shall be punished by a fine equal to half the fine imposed but not less than five and not more than nine hundred euros.
There are no restrictions on juveniles for other administrative sanctions and administrative measures. However, Art. 2 establishes the general condition that when imposing an administrative penalty and an administrative measure on a minor, his or her age and personality must be taken into account.

Child's minimal and moderate care

Children who commit crimes or administrative misdemeanours but **are under the age of responsibility set by the CC or the AMC are subject to minimal and moderate supervision measures**. These measures may also apply to minors under the age of 18 who have not committed criminal or administrative misdemeanours but fails to comply with other legal duties, such as not attending a school. The AMC also provides that a court can replace administrative penalties for juveniles with minimum and moderate supervision measures considering the minor's personality, the nature of the misdemeanour and the purposes of the administrative liability is established in the AMC.
The Law on Child Minimal and Moderate Care (LCMMC) provides for two types of measures: Minimum and Medium Care. The minimal care measures are listed in the table No 3.

Table No. 3 Child minimal supervision measures in Lithuania

No.	The type of measure	The maximum length of the measure
1	To visit a specialist	Up to 1 year
2	To attend a children's day-care center or any other institution or organization providing educational, cultural, sporting, social or other services or working in the community, including a non-governmental organization as defined in the Law on the Development of Non-governmental Organizations of the Republic of Lithuania;	
3	To continue studies at the same or another general education school or vocational education institution according to obligatory education programs;	
4	To participate in sports, arts or other therapy, specific programs of non-formal education, behavioral change, social education, prevention implemented by state, municipal institutions, institutions, enterprises, organizations, and non-governmental organizations in order to implement the objectives of this Law and positively influence the child's behavior;	
5	Treatment of mental and behavioral disorders due to the use of psychoactive substances, pathological gambling, other habits, and cravings disorders;	Determined individually
6	To participate in the mediation process;	

7	To carry out activities useful to the community or to an educational or other institution or institution.	Up to 20 hours

A child's **moderate care measure** is the separation of the minor from the negative social environment by placing him or her in a special socialization center. LCMMC states that a child moderate care measure may be imposed to a child who is 14 years of age or older. In the case of a child under the age of 14, moderate care may be imposed in exceptional cases, i.e. y. when a child has committed a criminal offence, but at the time of committing such act, has not reached the age of criminal liability and when behaviour of a child endangers his or other person's life, health or property.

The length of a child's moderate care measure is for up to one year and cannot be enforced when a person reaches the age of eighteen. The total duration of the child's average care (including extension or re-appointment) shall not exceed 3 years. The period of execution of the child's average care measure shall be calculated from the moment of its actual application.

As can be seen, these measures are very similar to the reformative measures provided in CC. The development of the concept of juvenile criminal justice in the 1990s provided for a integral system of sanctions for children for delinquent behavior, which should include both the current reformative measures provided for in the CC and the minimum and moderate care measures for children. However, in the practice of law-making, the juvenile justice system has been divided into two distinct areas of public administration: measures targeting children who have committed offenses and who have reached the age of criminal responsibility have been assigned to the justice system under governance of Ministry of Justice. Meanwhile the implementation measures for minor offenders who are not subject to criminal responsibility have been referred to the education system under the governance of Ministry of Education, Science, and Sports. However, such artificial exclusion has little effect on the nature of the measures. Most of them similar in content, although the duration, consequences of non-compliance, enforcing and controlling entities are different.

1.2. Criminal procedure of juveniles and Institutions responsible for criminal procedure

The juvenile criminal proceedings are regulated by the **Code of Criminal Procedure (CCP**). Unlike the CC, **the CCP does not provide for a separate chapter on juvenile criminal proceedings**, but special provisions on criminal proceedings are available for juvenile suspects.

Courts, prosecutor office and police are the main institutions in the criminal proceedings. There are also more institutions which carry out pre-trial investigation. The functions of pre-trial investigation are dedicated by law to different institutions according the field of activity and type of crime. For example for investigation of crimes related to corruption is under the responsibility of Special Investigation Service, Investigation of Financial crimes is carried out Financial Crimes Investigation Service, crimes related with illicit goods and smuggling – by Customs agencies, crimes related with State border violations – by State Border Guard Service, crimes committed in prisons – by Prison department. However, **Most of crimes are investigated by the Police. The pre-trial investigation is coordinated and controlled by prosecutors.**

Specialization of criminal proceedings institutions and officers

There are **no specialized courts or law enforcement institutions departments specialized in cases of juveniles**. However there are elements of specialization of judges, prosecutors, and police officers.

Article 111 of the Constitution of the Republic of Lithuania and Article 13 of the Law of Courts provide the possibility of establishing specialized juvenile courts, albeit for economic reasons, the inadequate number of cases and other reasons there are no special courts for family and juvenile cases. Article 34 of the Law of Courts provides for the possibility of establishing special categories of judges for particular case categories. **There is a list of judges specializing in juvenile and family cases established by National Courts Administration**. Pursuant to the Procedure for Establishing Specialization of Judges in Certain Categories and the Law on Courts of the Republic of Lithuania, special categories of cases are usually assigned to the judge who has chosen the respective specialization. In addition, **the training and qualifications of judges must be related to their specialization**. However, this does not guarantee that judges will only deal with certain categories of cases and that a particular category of cases will only be heard by a judge specializing in that field. Consequently, the case of a minor offender is not necessarily dealt with by a judge specialized in family and juvenile cases.[1] Thus **the specialization of judges is only partial.**

The regulation of specialization of other criminal justice officers is similar. The specialization of prosecutors is enshrined in the recommendations approved by order of the Prosecutor General. **Specialization in juvenile justice is provided at all levels of the prosecution**: prosecutors in district prosecutor's offices, specialized sections in district prosecutor's offices, as well as in the Prosecution Department of the Attorney General's Office. In addition, in the case of pre-trial investigations involving several specializations, juvenile justice should be a priority, in which case the pre-trial investigation should go to a prosecutor specializing in juvenile cases. However, there are a few exceptions: for example, in cases where the assigned prosecutor is unable to participate in criminal proceedings, the organization and conduct of pre-trial investigations may be assigned to another prosecutor. In addition, in order to balance the workload of prosecutors or for other important reasons, pre-trial investigations may be allocated to prosecutors irrespective of the provisions of the Guidelines. Finally, the sustainability of the specialization, the long-term prosecutor's work in the juvenile justice field, and consistent training under the Recommendations may not be assured, as prosecutor specializations are reviewed annually.[2]

In the police structure up to 2016, the juvenile police officers were responsible for work with minors. Their functions were broad but focused on prevention and control of the duties assigned to the minor. Likewise, juvenile police officers could be entrusted with separate procedural steps in pre-trial investigation of missing children, but the wider competence of a juvenile police officer during a pre-trial investigation could only be established by a separate order or direction of the Police Commissioner-General.[3] However, with the police reform of 2016 - 2018, these specialized positions of juvenile officers ceased to exist. The functions of dealing with juvenile offenders are delegated to officers within the institution, but they usually perform other functions as well.

The specialization of probation officers is also partial. Working with minors under probation is provided as function for some probation officers.

Institutions responsible for conducting sanctions for juvenile offenders

The enforcement of sentences is within the jurisdiction of the Ministry of Justice. The enforcement penalties (except fines) and reformative measures are under the responsibility of the Prison Department under the Ministry of Justice of the Republic of Lithuania: imprisonment is carried out in

[1] Ūselė L., Consistency of juvenile justice legal acts: procedural issues// Teisės Problemos, 2014: 4 (86).
[2] Ibid.
[3] Ibid.

the Juvenile Correctional House, probation and reformative measures (except placement in a special institution) is under the responsibility of the Lithuanian Probation Service.
The common rule is that administrative penalties and measures can be investigated and imposed by a wide range of authorities (police, courts, different agencies and inspectorates within their area of responsibility). Fine is enforced by bailiffs. In juveniles' cases, the AMC provides that all administrative misdemeanours of juveniles shall be heard and investigated by courts (Art. 614 of AMC).
The child's minimum and moderate care system is under the authority of the Ministry of Education, Science, and Sports. **The child's minimum and moderate care measures are appointed by the Municipal Administrator on the recommendation of the Child Welfare Commission** (in principle, cases are considered by these Commissions and the decision is de facto taken by them, the approval of Municipal Administrator is a formal act). **The imposition of moderate care measures requires court approval**. Minimum care measures by type are implemented by schools, NGOs, health care services (e.g. when specialist care is provided). The moderate care of the child is carried out in specialized socialization center's, which can be de facto considered as lenient regime juvenile detention facilities.

1.3. Juvenile offender's statistics in Lithuania

As we can see in the tables below, the numbers of both juvenile crimes, suspects, and convicts have decreased in the period between 2014 and 2018. About 90 percent of minor suspects are males and most (about 70 %) of minor offenders are 16 and 17 years old.

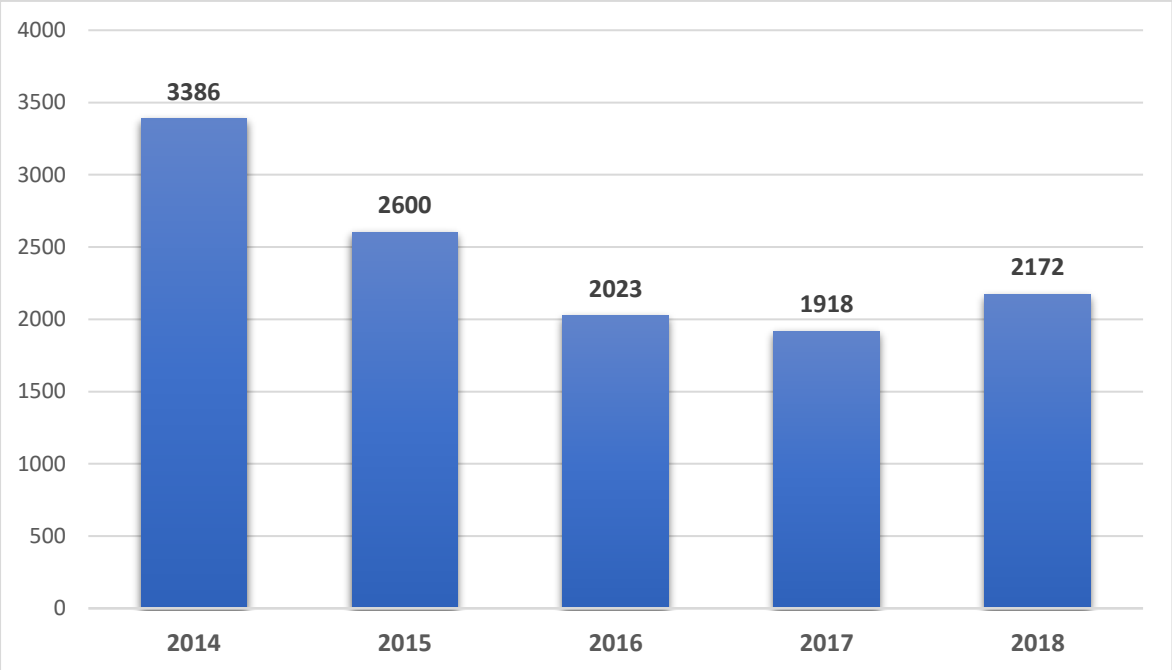


Figure No. 1. Juvenile (14 – 17 years) crime from 2014 to 2018

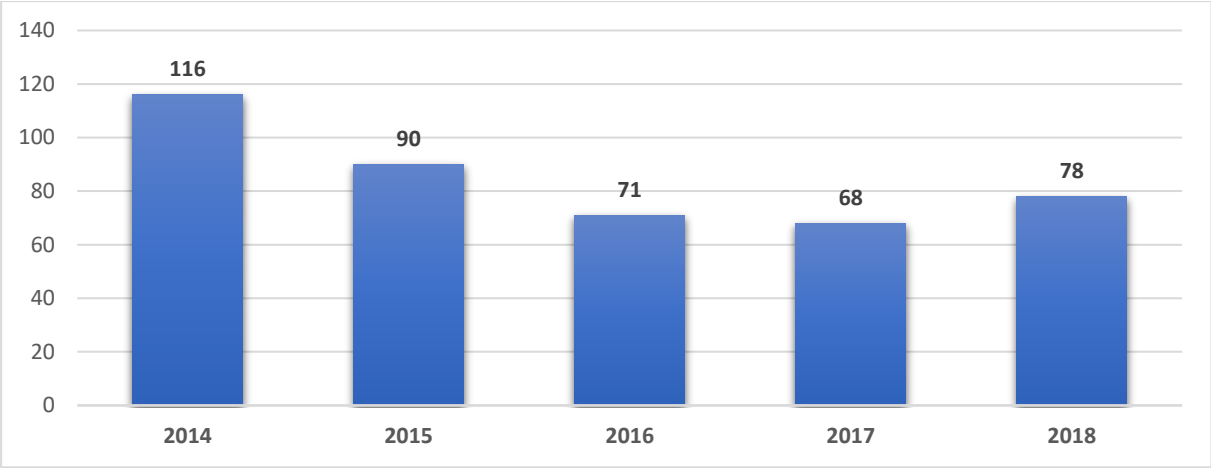


Figure No. 2. Juvenile (14 – 17 years) crime from 2014 to 2018 (rate per 100 000 population)[4]

The figure below shows that the numbers of the suspect changed very slightly during the last three years.

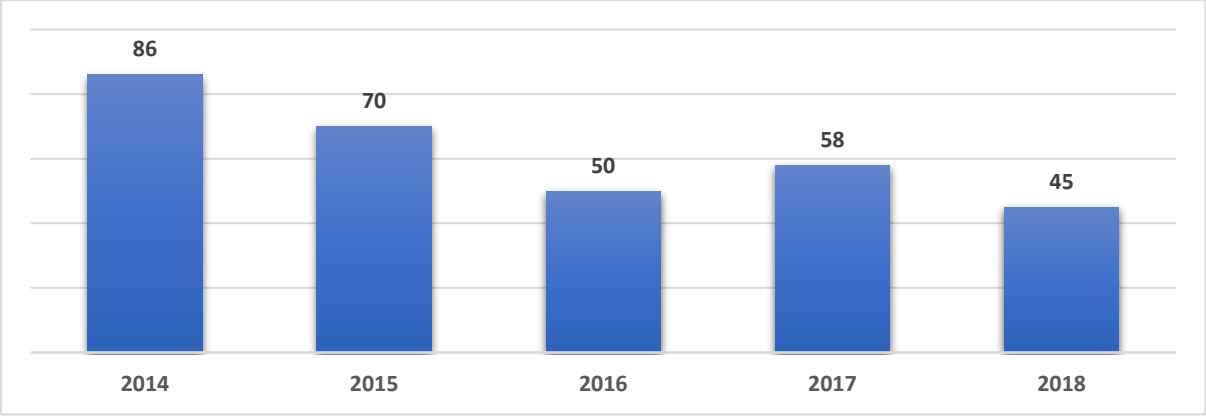


Figure No. 3. Juvenile suspects in Lithuania from 2014 to 2018 (rate per 100 000 population)[5]

[4] Data on criminal offences committed in the Republic of Lithuania (Form EK-SAV). Department of Informatics and Communications under the Ministry of Internal Affair of the Republic of Lithuania: https://www.ird.lt/lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteismininiu-tyrimu-statistika-1/view_item_datasource?id=7635&datasource=31021

[5] Data on juvenile suspected (accused) and victims in the Republic of Lithuania (Form_VSDN). Department of Informatics and Communications under the Ministry of Internal Affair of the Republic of Lithuania: https://www.ird.lt/lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteismininiu-tyrimu-statistika-1/view_item_datasource?id=7671&datasource=31753

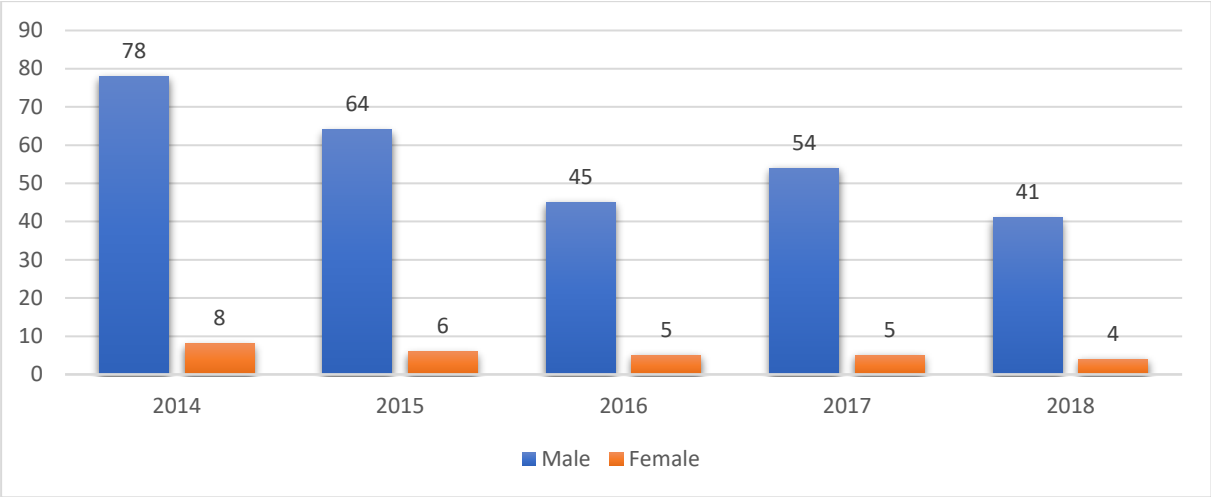
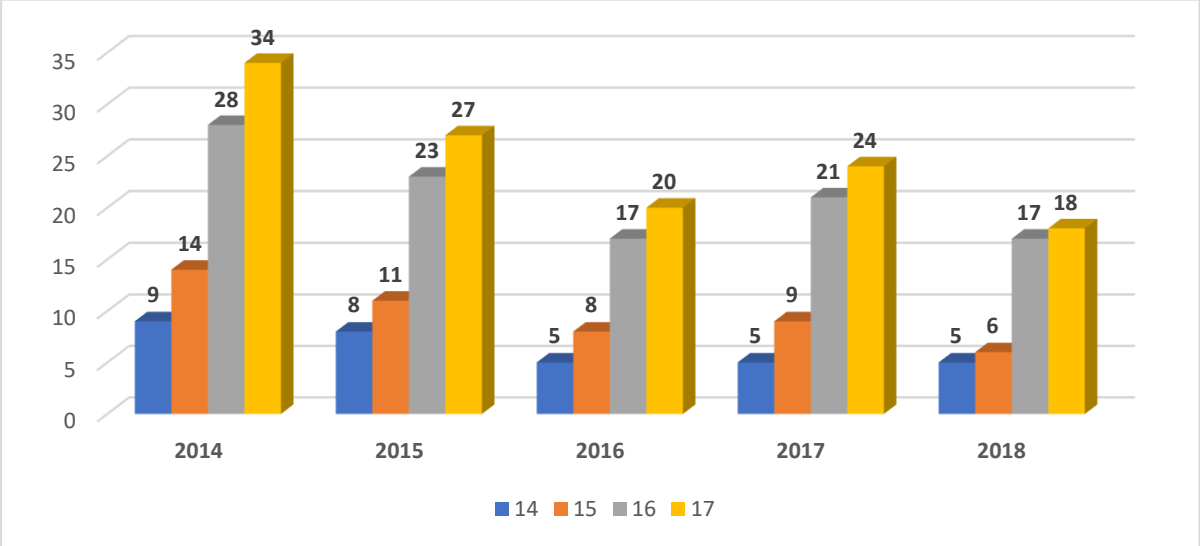


Figure No 4. Minor suspects by sex (2014 – 2018 rate per 100 000 population)[6]



Picture No 5. Minor suspects in Lithuania by age (rate per 100 000 population)[7]

As the figures below reveals the sentencing statistics correspond to the trends of suspected minors.

[6] Data on juvenile suspected (accused) and victims in the Republic of Lithuania (Form_VSDN). Department of Informatics and Communications under the Ministry of Internal Affair of the Republic of Lithuania: https://www.ird.lt/lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiu-tyrimu-statistika-1/view_item_datasource?id=7671&datasource=31753

[7] Data on juvenile suspected (accused) and victims in the Republic of Lithuania (Form_VSDN). Department of Informatics and Communications under the Ministry of Internal Affair of the Republic of Lithuania: https://www.ird.lt/lt/paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiu-tyrimu-statistika-1/view_item_datasource?id=7671&datasource=31753

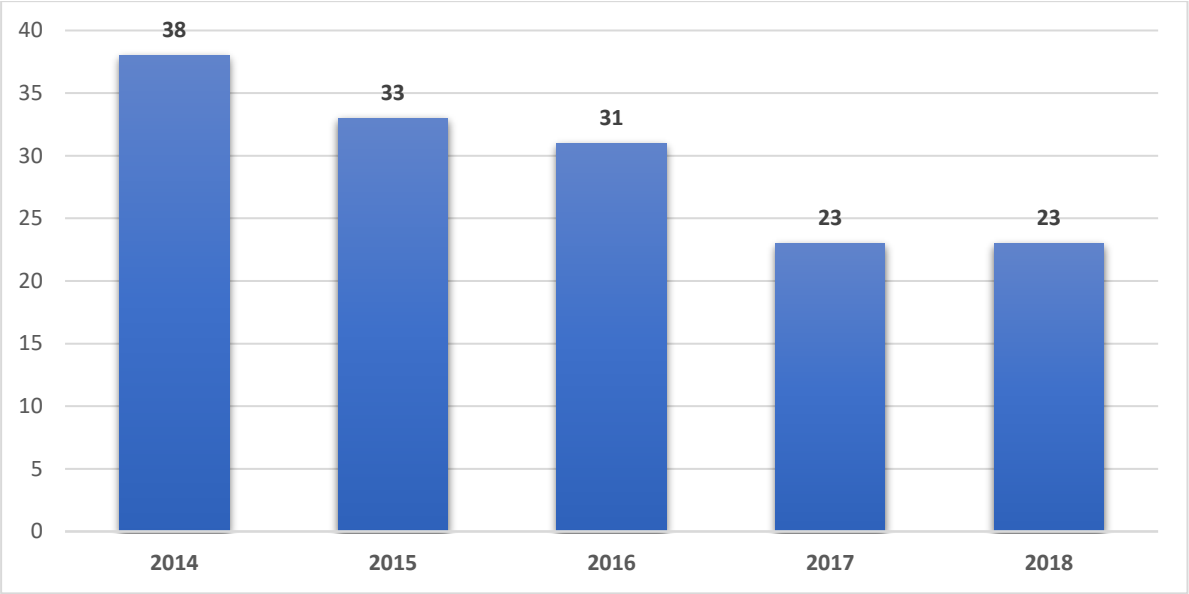


Figure No. 6. Sentenced minors from 2014 to 2018 (rate per 100 000 population)

Table No. 4. Sentenced minors by sex and age from 2014 to 2018 (rate per 100 000 population)

	2014	**2015**	**2016**	**2017**	**2018**
Total number	38	33	31	23	23
Males	35	31	28	22	22
Females	3	3	3	2	1
14 years	3	3	2	1	1
15 years	6	6	6	3	3
16 years	12	11	10	8	8
17 years	17	14	13	12	11

2. ASSESMENT OF JUVENILE OFFENDERS

2. 1. Theoretical approach

"Predicting the weather is easy compared with predicting violence".
(Monahan and Steadman (1996 , p. 932), in Jay P. Singh, p. 215, 2012)

The assessment is a process, which involves gathering, interpretation of the information about an individual, and communication of findings[8]. Formal and informal assessments within justice systems are carried out by the police officers, prosecutors, mental health professionals, probation officers and others. The evaluations of an individual in an attempt to assist the legal decision maker in answering various legal questions refer to forensic assessments[9]. In situations when legal questions encompass the need of knowledge on an individual's mental health and its interaction with legal constructs, the forensic mental health assessments are conducted[10]. Kirk Heilbrun, Thomas Grisso, Alan. M. Goldstein and Casey Laduke[11] note that "the inclusion of "mental health" as a modifier does not restrict forensic mental health assessment to assessment of the presence or absence of mental disorders" as the term "mental health" refers to various mental states, psychological phenomena and behavioral predispositions.

Juvenile forensic assessments occur at various stages of legal proceeding, evolving from the first encounter with the legal system to the end of the sentence. [12] As an overview, juvenile forensic assessments can be classified basing on the systems of justice or basing on the task for an assessment. **A systems-based classification divides juvenile forensic assessments broadly into two categories- criminal and civil**. Whereas **a task-based classification devides juvenile forensic assessments into**

[8] Huss M. T. (2009). Forensic psychology: research, practice, and applications. Malden (Mass.): Blackwell Publishing;
Hoge R.D. (2012). Assessment in Juvenile Justice Systems: An Overview. In E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp. 157-168). Springer, Boston;
Heilbrun, K., Marczyk, G., DeMatteo, D., and Mack-Allen, J. (2007). A Principles-Based Approach to Forensic Mental Health Assessment: Utility and Update. In A. M. Goldstein (Ed.), *Forensic psychology: Emerging topics and expanding roles* (pp. 45-72). Hoboken, NJ, US: John Wiley & Sons Inc.

[9] Hoge R.D. (2012). Assessment in Juvenile Justice Systems: An Overview. In E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp. 157-168);
Roesch R., Zaft P.A., and Hart S.D. (2010). Forensic psychology and Law. John Wiley & Sons, Inc., Hoboken, New Jersey; Huss M. T. (2009). Forensic psychology: research, practice, and applications. Malden (Mass.): Blackwell Publishing.

[10] In pychology or psychiatry litreture, discussing issues related to law, we can find the forensic assessment and forensic mental health assessment used as synonymous consepts, so hereinafter in this paper will be used the term "forensic assessment. Heilbrun K., DeMatteo D. (2012) Toward Establishing Standards of Practice in Juvenile Forensic Mental Health Assessment. In E. L. Grigorenko E. (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp.145-156). Springer, Boston.

[11] Heilbrun K., Grisso T., Goldstein A.M., and Laduke C. (2012). Foundations of Forensic Mental Health Assessment. In R. Roesch, Zaft P.A (Eds.), Forensic Assessments in Criminal and Civil Law– A Handbook for Lawyers (pp.1-14). Oxford University Press. Retrieved July 15, 2019, p. 3. [https://www.researchgate.net/publication/46485015_Foundations_of_Forensic_Mental_Health_Assessment]

[12] Grossi, L. M., Brereton, A., and Prentky, R. A. (2016). Forensic Assessment of Juvenile Offenders. Invited chapter in S. Righthand and W. Murphy (Ed.), The Safer Society Handbook of Assessment and Treatment of Adolescents who have Sexually Offended. Brandon, VT: Safer Society Press.

three categories. [13] The first task-based category focuses on discovery of the mental state, motivation, attitudes, and behaviors of an individual during *past* events relevant for the legal issue (e.g. criminal responsibility, validity of confession and etc.). The second task-based category includes assessments in which the objective is to describe the *current* mental state and abilities of an individual to function in a *current* specific context (e.g. competence to stand trial, competence to plead, and etc.). And the third category involves assessments in which the task is to estimate the likelihood of behaviors and mental state *in the future* (e.g. sentencing (in juvenile justice), risk of future offending for pre-trial secure placement, or for placement after adjudication, or for release, and etc.).[14] Those reasons of juvenile forensic assessment echo the tasks of an individual assessment foreseen in Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, and the latter are to identify child's specific needs in terms of protection, education, training and social integration to determine if and to what extent a child would need special measures during the criminal proceedings, the extent of his/her criminal responsibility and the appropriateness of a particular penalty or educative measure. So, the individual assessment foreseen in Directive 2016/800 by its tasks refers to juvenile forensic assessments and by concept- „individual"- refers to assessments carried on an individual to individualize "something" (special measures and etc.).

For this reason we attempt to focus on juvenile forensic assessments in criminal proceedings as they correspond with an individual assessment in Directive 2016/800 in Lithuania and generally. Before focusing on specific legal issues in criminal contexts in which the juvenile forensic assessment is used and can be useful, it is important to consider forensic assessment principles, which may serve as some guidance toward the improvement of the quality of juvenile forensic assessments, as well as an individual assessment foreseen in Directive 2016/800.

In general, **all forensic mental health professionals are expected to follow their respective codes of ethical conduct** and to strive to meet specialty guidelines, supplementing the professional Ethics codes. For instance, as an overview, in USA such documents for forensic psychologists and psychiatrists are the American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct (Ethics Code)* (APA, 2002a), *the Specialty Guidelines for Forensic Psychologists* (*Specialty Guidelines*; Committee on Ethical Guidelines for Forensic Psychologists, 1991, revised 2013), the American Psychiatric Association's *Principles of Medical Ethics with Annotation Especially Applicable to Psychiatry* (American Psychiatric Association, 2013), the American Academy of Psychiatry and the Law *the Ethics Guidelines for the Practice of Forensic Psychiatry* (*Ethics Guidelines*; 2005). Respectively, in Europe - the European Federation of Psychologists' Associations (EFPA) *Meta Code of Ethics* (EFPA, 1995, revised 2005), *EFPA Standards for Psychological Assessment* (EFPA, 2013), *the European psychologist in forensic work and as expert witness Recommendations for an ethical practice* (EFPA, 2001), and in Lithuania - Lithuanian Psychological Association's *the Professional Ethics Code of Psychologists* (2017), Lithuanian Psychological Association's *Test Use Regulation* (2014), *the*

[13] Heilbrun K., Grisso T., and Goldstein A. M. (2009). The Nature and Evolution of Forensic Mental Health Assessment. In Heilbrun, K., Grisso, T., and Goldstein, A. M., Foundations of forensic mental health assessment (pp. 5-40). New York, NY, US: Oxford University Press;

Heilbrun K., Grisso T., Goldstein A.M., and Laduke C. (2012). Foundations of Forensic Mental Health Assessment. In R. Roesch, Zaft P.A (Eds.), Forensic Assessments in Criminal and Civil Law– A Handbook for Lawyers (pp.1-14). Oxford University Press. Retrieved July 15, 2019.

[14] Ibid.

Professional Ethics Code of Forensic Experts (, Forensic Science Centre of Lithuania, 2014). Some of these documents are written to apply to all areas of psychology practice and are enforceable codes, others- represent the aspirational model for psychology practice within the domain of law and justice, so, for juvenile forensic assessment as well.

None of these documents specify standards of practice in juvenile forensic assessments. Even though the Lithuanian legal act *the Professional Ethics Code of Forensic Experts* (Forensic Science Centre of Lithuania, 2014) foresees special provisions regarding mandatory principles for the professional conduct of forensic experts in expert examinations, this act doesn't specify principles on the subject of complex juvenile forensic assessments. The same could be said about the *EFPA Standards for Psychological Assessment* (EFPA, 2013). Although *EFPA Standards for Psychological Assessment* (EFPA, 2013) do not specifically cover the competence in assessment for each of the three levels of qualifications (assistant assessment administrator, assessor and specialist in psychological assessment) in the justice related setting for adults or juvenile assessments, the document notes that „*other context specifications can readily be defined by considering the variables (e.g. types of assessment used, reasons for assessment, assessment candidates etc) listed in these specifications* <of health and social care, education and work> *and amending them accordingly*" (p.2). So, as far as Lithuania is the member of EFPA and doesn't have its own document defining the principles for the assessment within juvenile justice domain, **professionals who are going to perform an individual assessment, foreseen in Directive 2016/800, should aspire to the Lithuanian legal act *the Professional Ethics Code of Forensic Experts* and to the EFPA *Standards for Psychological Assessment* (EFPA, 2013)** as the latter are generic and for good practice.

For the purpose of guidance in informed, appropriate, sufficient and credible juvenile assessments in the justice domain, these EFPA best- practice standards and the Lithuanian legal act *the Professional Ethics Code of Forensic Experts* may be supplemented by the principles of juvenile forensic assessments, established and discussed by Kirk Heilbrun and David DeMatteo[15]. **Kirk Heilbrun and David DeMatteo described 7 general principles and 31 principles organized around four steps of forensic assessment: preparation, data collection, data interpretation and communication of results.** Among 38 principles, some of them are identical to foundational principles of adult forensic assessments and others- juvenile specific. Kirk Heilbrun and David DeMatteo comment juvenile specific principles of forensic assessments in detail, which are:

General principle

1. Be aware of the important differences between clinical and forensic domains, which may be less pronounced because of the prioritization of rehabilitation in the juvenile system.

2. Obtain appropriate education, training, and experience in one's area of forensic specialization and human development.

6. Be familiar with specific aspects of the legal system, including communication, discovery, deposition, and testimony—particularly those which apply distinctively to the juvenile system.

[15] Heilbrun K., DeMatteo D. (2012) Toward Establishing Standards of Practice in Juvenile Forensic Mental Health Assessment. In E. L. Grigorenko E. (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp.145-156). Springer, Boston.

Preparation principles:

8. Identify relevant forensic issues, focusing particularly on the recurring issues of risk and rehabilitation (needs and amenability).

9. Accept referrals only within area of expertise, which should include human development as well as clinical and forensic expertise.

10. Decline the referral when evaluator impartiality is unlikely, including strong beliefs that would impair balancing public safety and rehabilitation for adolescents.

13. Obtain appropriate authorization, which is somewhat more complex for adolescents who are younger than 18.

Data collection principles:

19. Obtain relevant historical information, with particular emphasis on the distinctive domains of family, school, and peers.

20. Assess clinical characteristics in relevant, reliable, and valid ways, accounting for less stability in personal characteristics because of developmental changes.

21. Assess legally relevant behavior while compensating for developmental influences of instability of capacities.

23. Provide appropriate notify cation of purpose and/or obtain appropriate authorization before beginning, accounting for additional complexities when youth are not yet 18.

24. Determine whether the individual understands the purpose of the evaluation and the associated limits on confidentiality, gauging impact of developmental immaturity as well as clinical and cognitive deficits.

Data interpretation principles:

27. Use case-specific (idiographic) evidence in assessing clinical condition, functional abilities, and causal connection. "Clinical condition" includes developmental immaturity.

28. Use nomothetic evidence in assessing clinical condition, functional abilities, and causal connection. "Clinical condition" includes developmental immaturity.

Communication principles:

38. Control the message. Strive to obtain, retain, and regain control over the meaning and impact of what is presented in expert testimony. The judge may be more active in questioning the expert, adding questions that are not adversarial.

Professional and ethical standards of behavior mentioned above imply „who" and „how" should conduct the juvenile forensic assessments to get them appropriate and credible. The standards and forensic mental health professional literature stress that the procedures of juvenile assessment should be guided by the assessment questions posed by the referral source and the decision point of process in justice system.[16] Gina M. Vincent, Laura S. Guy, Thomas Grisso (2012), Thomas Grisso and L. A.

[16] Hoge R.D. (2012). Assessment in Juvenile Justice Systems: An Overview. In E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp. 157-168);

Vincent G. M., Guy L. S., Grisso T. (2012). Risk Assessment in Juvenile Justice: A Guidebook for Implementation. John D. and Catherine T. MacArthur Foundation. Retrieved August 20, 2019. [https://escholarship.umassmed.edu/psych_cmhsr/573/];

Underwood (2004)[17] point out that **the different justice decision points relate with different assessment questions**. For example, at pre-trial stage/ detention the legal decision maker decides whether a juvenile can be released or has to be detained while waiting adjudication proceedings, so the questions tied to this decision may be the level of risk of not appearing in the court and the level of risk of harm to himself/herself and others. Accordingly, **at the case hearing stage or at the disposition, the judge or the court considers the appropriate placement (probation or incarceration), security level and interventions with the best potential for reducing the likelihood of reoffending**. At this stage the questions, related with the decisions, may be a level of a juvenile's risk to public safety, factors driving a juvenile's delinquent behavior and his/her risk to public safety, areas of best targets for intervention in order to reduce the likelihood of reoffending or delinquent activity[18]. So, at the detention and the disposition stages in assisting the legal decision maker, the risk assessment, the risk of harm assessment, threat assessment, risk of not appearing in the court assessment can be carried out, as well as the assessments of a juvenile's mental state at the time of the delinquent act or the offence.[19]

In general, **the results of juvenile forensic assessments may help the legal decision maker to make determination on regarding the diverting a juvenile from moving futher into the judical process, the level of criminal responsibility (sanity/ insanity), adjudicative competence, security level, the appropriate placement, treatment or rehabilitative interventions**.[20] Although assessments address

Heilbrun K., DeMatteo D. (2012) Toward Establishing Standards of Practice in Juvenile Forensic Mental Health Assessment. In E. L. Grigorenko E. (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp.145-156). Springer, Boston.

[17] Vincent G. M., Guy L. S., Grisso T. (2012). Risk Assessment in Juvenile Justice: A Guidebook for Implementation. John D. and Catherine T. MacArthur Foundation. Retrieved August 20, 2019. [https://escholarship.umassmed.edu/psych_cmhsr/573/];

Grisso T., and Underwood L. A. (2004) . Screening and Assessing Mental Health and Substance Use Disorders Among Youth in the Juvenile Justice System: A Resource Guide for Practitioners. OJJDP. Retrieved August 20, 2019. [https://www.ncjrs.gov/pdffiles1/ojjdp/204956.pdf]

[18] Vincent G. M., Guy L. S., Grisso T. (2012). Risk Assessment in Juvenile Justice: A Guidebook for Implementation. John D. and Catherine T. MacArthur Foundation. Retrieved August 20, 2019. [https://escholarship.umassmed.edu/psych_cmhsr/573/]

[19] Huss M. T. (2009). Forensic psychology: research, practice, and applications. Malden (Mass.): Blackwell Publishing;

Vincent G. M., Guy L. S., Grisso T. (2012). Risk Assessment in Juvenile Justice: A Guidebook for Implementation. John D. and Catherine T. MacArthur Foundation. Retrieved August 20, 2019.[https://escholarship.umassmed.edu/psych_cmhsr/573/];

Conroy M.A. (2012). Assessing Juveniles for Risk of Violence. In: E. L. Grigorenko (Ed.), *Handbook of Juvenile Forensic Psychology and Psychiatry* (pp. 227-238). Springer, Boston;

Scott C. L., Soulier M. (2012). Juveniles and Criminal Responsibility Evaluations. In: E. L. Grigorenko (Ed.), *Handbook of Juvenile Forensic Psychology and Psychiatr*y (pp. 83-92). Springer, Boston.

[20] Grisso T., and Underwood L. A. (2004). Screening and Assessing Mental Health and Substance Use Disorders Among Youth in the Juvenile Justice System: A Resource Guide for Practitioners. OJJDP. Retrieved August 20, 2019. [https://www.ncjrs.gov/pdffiles1/ojjdp/204956.pdf]; Huss M. T. (2009). Forensic psychology: research, practice, and applications. Malden (Mass.): Blackwell Publishing;

Grossi, L. M., Brereton, A., and Prentky, R. A. (2016). Forensic Assessment of Juvenile Offenders. Invited chapter in S. Righthand and W. Murphy (Ed.), *The Safer Society Handbook of Assessment and Treatment of Adolescents who have Sexually Offended*. Brandon, VT: Safer Society Press;

forensic questions, for example, the mental state at the time of the offence, the risk of future violence, the risk of reoffending, risk of sex reoffending, the juvenile's understanding of criminal proceeding and potential consequences of any legal decisions, however, more frequently assessments are used to identify a juvenile's psychological needs to recommend the rehabilitative interventions.[21]

In order to create effective assessment process the valid and reliable assessment instruments and procedures are also necessary. One of the most important principle of best practice indicates the use of standardized assessment tools.[22] The standardized assessment instruments and procedures are "instruments or procedures with (a) fixed stimulus, response, and scoring formats; (b) yielding quantitative scores; and (c) for which normative and psychometric data are available"[23]. In the mental health professional literature it is possible to find standardized assessment instruments and procedures developed for general application but relevant to use in juvenile justice settings, as well as instruments and procedures specifically developed for forensic application[24].

For example, **standardized assessment tools**: *(a) for general and justice settings application*: personality tests- the Minnesota Multiphasic Personality Inventory- Adolescent (MMPI-A), Reynolds Adolescent Depression Scale (RADS), Psychopathy Checklist: Youth Version (PCL:YV); behavioral and emotional disturbances or pathology measuring instruments- the Diagnostic Interview Schedule for Children (DISC), Child and Adolescent Functional Assessment Scale (CAFAS), parent, teacher, and youth forms of the Child Behavior Checklist (CBCL), The Massachusetts Youth Screening Instrument-Version 2 (MAYSI-2); cognitive functioning measuring tools- the Wechsler Intelligence Scale for Children-IV (WISC-IV); *(b) forensic application*: risk of dangerousness, sophistication-maturity, and treatment amenability measuring tool Risk-Sophistication-Treatment Inventory (RSTI); antisocial attitudes, criminal reasoning, self-serving cognitive distortion measuring tools "How I think" (HIT) and the Criminal Sentiments Scale-Modified (CSS-M); risk assessment tools- risk of reoffending/needs/ strengths measuring tool Youth Level of Service/Case Management Inventory (YLS/CMI), risk of reoffending/ needs measuring tool ASSET; violence risk in adolescents measuring tool Structured Assessment of Violence Risk in Youth (SAVRY); strength/vulnerabilities/ multiple risk (harm to others and rule violations (violence, non-violent offences, substance abuse, unauthorized absences) and harm

---

Hoge, 2012; Vincent G. M., Guy L. S., Grisso T. (2012). Risk Assessment in Juvenile Justice: A Guidebook for Implementation. John D. and Catherine T. MacArthur Foundation. Retrieved August 20, 2019.[https://escholarship.umassmed.edu/psych_cmhsr/573/]

Morgan-D'Atrio C. (2012). Mental Health Assessment of Juveniles. In: E. L. Grigorenko (Ed.), *Handbook of Juvenile Forensic Psychology and Psychiatry* (pp.169-200). Springer, Boston;

Scott C. L., Soulier M. (2012). Juveniles and Criminal Responsibility Evaluations. In: E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp. 83-92). Springer, Boston.

[21] Grisso T., and Underwood L. A. (2004) . Screening and Assessing Mental Health and Substance Use Disorders Among Youth in the Juvenile Justice System: A Resource Guide for Practitioners. OJJDP. Retrieved August 20, 2019. [https://www.ncjrs.gov/pdffiles1/ojjdp/204956.pdf]

[22] Hoge R.D. (2012). Assessment in Juvenile Justice Systems: An Overview. In E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp. 157-168);

Heilbrun K., Grisso T., Goldstein A.M., and Laduke C. (2012). Foundations of Forensic Mental Health Assessment. In R. Roesch, Zaft P.A (Eds.), Forensic Assessments in Criminal and Civil Law– A Handbook for Lawyers (pp.1-14). Oxford University Press. Retrieved July 15, 2019. [https://www.researchgate.net/publication/46485015_Foundations_of_Forensic_Mental_Health_Assessment]

[23] Hoge R.D. (2012). Assessment in Juvenile Justice Systems: An Overview. In E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry, pp. 159.

[24] Ibid, 2012, pp. 157-168;

to the adolescent (suicide, non-suicidal self-injury, victimization, health neglect) measruing tool the the Short-Term Assessment of Risk and Treatability: Adolescent Version (START:AV)[25]

2.2. Individual assessments of minors in criminal proceedings in Lithuania

Lithuanian law does not yet provide an individual assessment of minors in criminal proceedings as it required according the Directive 2016/800. However, there are draft laws that will be discussed in next chapter.

Certain elements of **individual assessment of victims and witnesses**, as well as **crime risk assessment for accused and convicted persons**, are provided by Lithuanian Laws.

The CCP currently provides an individual assessment of victims in criminal proceedings. The Article 186 (1) of the CCP establishes that no later than during the first questioning of the victim, the pre-trial investigation officer or prosecutor shall assess the victim's special protection needs. Where appropriate, a psychologist or other persons with special knowledge or skills may be called upon to do so. The data collected during the victim's special protection needs assessment shall be taken into account in the organization of criminal proceedings and, in the cases provided in CCP, in deciding whether one or more of the safeguards set forth in CCP need to be applied to the victim.

It should be also mentioned that Article 163 of the CCP provides **the compulsory participation of a psychologist in the interrogation of a minor victim or witness** in cases of investigation of crimes against human life, health, liberty, sexual freedom and integrity, child or family, profit from prostitution or involvement of a minor in prostitution. The participation of psychologist can be requested by participants of criminal proceedings or initiated by a pre-trial investigation officer, prosecutor or pre-trial judge. The psychologist assists the interrogation considering child's social and psychological maturity. Also, in such cases, **a representative of the State Child Rights Protection Authority observes the interrogation from separate room**. His or her duty is ensure that the rights of minor victim or witness are not violated during the interrogation.

A representatives (e.g. parents) of a juvenile witness or victim have the right to participate in the interrogation only after assessing whether he / she will not influence the juvenile negatively.

In the provisions of the current CC and CCP and in the current Law on Probation it is possible to identify two types of forensic assessments at different stages of criminal proceeding:

- **the social enquiry report** (probation report used as synonymous) in the stage of hearing the case (proceedings before the court of first instance) (Code of Criminal Procedure of the Republic of Lithuania, Article 253-1; the current Law on Probation of the Republic of Lithuania, Article 8) and in the stage of execution of penalty (the current Penal Code of the Republic of Lithuania, Article 164; the current Law on Probation of the Republic of Lithuania, Articles 6-4 and 8);

[25] Hoge R.D. (2012). Assessment in Juvenile Justice Systems: An Overview. In E. L. Grigorenko (Ed.), Handbook of Juvenile Forensic Psychology and Psychiatry (pp. 157-168);

Huss M. T. (2009). Forensic psychology: research, practice, and applications. Malden (Mass.): Blackwell Publishing;

Klimukienė V. , Laurinavičius A. , Laurinaitytė I., Ustinavičiūtė L. , Baltrūnas M. (2018). Examination of Convergent Validity of Start: AV Ratings among Male Juveniles on Probation // Tarptautinis psichologijos žurnalas: biopsichosocialinis požiūris = International journal of psychology: a biopsychosocial approach. Kaunas: Vytauto Didžiojo universitetas. No. 22, p. 31-54. DOI: 10.7220/2345-024X.22. Retrieved August 23, 2019, [https://repository.mruni.eu/ds2/stream/?#/documents/06a2f276-8e20-4aeb-b87e-46f4672e2a45/page/1]

- **the expertise** in the stage of pre-trial investigation (Code of Criminal Procedure of the Republic of Lithuania, Article 208) and in the stage of hearing the case (proceedings before the court of first instance) (Code of Criminal Procedure of the Republic of Lithuania, Article 286).

None of the mentioned current Lithuanian legal norms provide specifications on the forensic assessments of juveniles. It may be assumed that provisions of Lithuanian legal acts regarding forensic assessments are generic for different ages. Although it is questionable whether the provisions of Lithuanian legal acts for adults and minors concerning assessments should not be differentiated because of different psychological, cognitive, social, sexual competences (abilities and skills) at different ages.

The social enquiry report.

According to Article 36 (1) of the CCP, the social inquiry report is a document prepared by a specialist describing the social environment of the accused or convicted person, criminogenic factors, as well as other information that helps the court to individualize probation conditions.

The **judge may assign the social inquiry report at his own discretion or at the request of the prosecutor, the accused or his lawyer**. The social inquiry reports are being prepared by the probation service. It shall be prepared for at least 20 working days. These provisions of the CCP are applicable when deciding on the suspension of sentence (probation) in criminal proceedings. Thus it is applicable only in few cases of criminal proceedings. It is important to note that the law imposes a discretion but not obligation to the court to commission the preparation of social inquiry report. The number of social inquiry reports in practice is very limited. For example from 2015 to 2018 only 101 reports were prepared. Such a low number of social inquiry reports can be explained by above-mentioned discretion of judges and criminal proceedings participants' attitudes characterized by a scepticism: according judge and prosecutors' opinion this instrument is surplus (in most cases the competence of judge and prosecutor is enough (in their opinion) to individualize probation conditions).

Thus **the social inquiry reports** is, in its essence, an official document, which, in the prescribed form, **presents the results of the risk assessment and recommendations on probation conditions**. **The social enquiry report consists of three parts**: general information, data of enquiry and the conclusion. The general information part includes information (1) about an assessor, (2) about the accused person or offender, who are assessed, and (3) the enquiry techniques. The second part of the social enquiry report involves description of (1) an accused person (offender) and his social environment (offences, accommodation, education, training and employability, financial management and income, relationships, lifestyle and associates, substance abuse, emotional well-being, thinking and behaviour, attitudes), (2) in a case of parole- release consideration- the behavior of an offender during his imprisonment, his participation in the correctional programs and the outcomes, the performance of the parents' duties, foreseen in the Civil Code of the Republic of Lithuania, and (3) other significant data.

The last part of the social enquiry report, named the conclusion, encompasses (1) **the results of risk of offending assessment and criminogenic needs**, and (2) **reasoned opinion on the individualization of probation conditions** (recommended conditions of probation and the motives of recommendations). The second part of the social enquiry report resembles the list of factors related to the likelihood of re-offending, mentioned in OASys risk assessment instrument. The Order of the Minister of Justice of

the Republic of Lithuania[26] implies the use of OASys risk assessment tool when carrying on an assessment of offending behaviour of an accused person or offender while other instruments can be only used supplementary in accordance with the purpose to identify more precisely the offending risk and criminogenic needs. This Order doesn't specify the content, structure of the social enquiry report and the instruments used to collect data when the social enquiry is carried on an accused juvenile or juvenile offender. The Article 6.6. of the Order, mentioned above, regarding the preparation actions of the social enquiry report notes that data collected by the interview with accused juvenile or juvenile offender should be tested by information from the child rights protection service (now called the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour).

It is unclear from the Order if the content of the social enquiry report is applicable just to adult defendant/ offender or to juveniles as well, and what tools for juvenile offending behaviour assessment are applied as OASys is the risk assessment tool for adult (age 18+) offenders at case hearing stage and during prison sentence. The risk assessment is based on methodologies and programs approved by the Director of the Prisons Department. Until 2019 the OASIS risk assessment methodology was mostly applied in Lithuania. In 2019 the special risk assessment instruments for juvenile START: AV offenders has been introduced in prison and probation system. Hence, the results of the risk assessment may be used to decide on the appropriateness of a probation appointment, to determine or modify probation conditions, or to establish or modify a probationer's individual care plan, and in other necessary cases.

Summing up it may be said that there are quite comprehensive Lithuanian legal norms regulating the procedures of the forensic assessment for adult defendants or offenders on the purpose of individualising the probation conditions at the case hearing and execution of penalty stages, but they contain shortcomings in relation to the assessment of juvenile defendant or offender at the mentioned stages of criminal proceedings. The obvious shortcoming of the juvenile forensic assessment (named the social enquiry) in this case is related with the assessment instruments: it is unclear what specific forensic assessment instruments for risk of offending for youth are used, and if any other tools, relevant for application in both general and legal settings. Lithuanian psychological association provides with the list of the psychological assessment instruments, standardized and adapted in Lithuania. In this list there is the behavioral and emotional disturbances measuring instrument- the Child Behavior Checklist (CBCL), which can be applied in legal setting as well. In this list there is no any of instrument specifically developed for assessments in juvenile justice system.

Another type of forensic assessments at different stages of criminal proceeding in Lithuania **is the expertise.**

The Expertise.

Articles 208, 209 and 286 of CCP, the Law of the Forensic Expertise of the Republic of Lithuania, the Order of Health minister on the approval of description of the procedure on organizing and performing the forensic psychiatric expertise, the Order of Health Minster on performance of forensic psychiatric, forensic psychological expertise at the State forensic psychiatry service under the Ministry of Health, the Professional Ethics Code of Forensic Experts regulate the assignment of the expertise in the stage of pre-trial investigation and in the stage of hearing the case, accordingly, the procedures of organizing,

[26] The Order of the Minister of Justice of the Republic of Lithuania. Order No. 1R-159 of 14 June on the Approval of Methodological Recommendations for the Form and the Preparation of the Social Enquiry Report (2015).

conducting the psychiatric and psychological expertise, the formalization of its results, the standards of professional behavior for experts. There are no special provisions for juveniles in this Code or mentioned legal norms in relation to the assignment of the expertise. So**, it can be assumed that the same legal norms concerning expertise are applicable to juveniles as well**.
In the stage of pre-trial investigation the prosecutor, leading the pre-trial investigation, makes the decision on the necessity of the expertise in accordance with the provisions of Article 209-1 of CCP. The prosecutor shall inform in written the suspect, his attorney and any other parties of the process interested in the results of expertise, and he shall specify the time limit within which those persons may submit the requests due to questions for an expert, the assignment of a special expert, and to provide additional material for expertize. After following these provisions the prosecutor shall apply with the statement for the expertise to the pre-trial judge together with any requests made by the parties, if any.
The expertise can be assigned in the stage of hearing the case as well. The Article 286 of CCP sets the court the right to assign the expertise in the stage of hearing the case on the request of the parties of the process or on its own initiative.

The psychiatric and psychological expertise can be carried out by **the experts, who have the qualification of a forensic expert and are on the list of forensic experts of the Republic of Lithuania**.
The State forensic psychiatry service under the Ministry of Health names the kinds of outpatient and inpatient forensic psychiatric expertise they carry out, which are: forensic psychiatric expertise, forensic psychological expertise, child and adolescent forensic psychiatric expertise, child and adolescent forensic psychological expertise, combined expertise and psychiatric/psychological autopsy expertise[27]. In the State forensic psychiatry service there is a separate division of experts, who conduct child and adolescent forensic psychiatric or forensic psychological, or combined expertise. The purpose of the psychiatric or psychological expertise lies in their definitions defined in the legal norms. Both the psychological expertise and psychiatric one are court or judge ordered procedural acts/actions. The **purpose of the psychological expertise is to assist the court or judge in answering the specific legal questions requiring knowledge of forensic psychology by assessing the structure, characteristics and regularities of the person's mental processes[28]**. Whereas the purpose of the psychiatric expertise is to assist the court or judge in answering the specific legal questions requiring knowledge of forensic psychiatry by assessing the person's mental state.[29] The purpose in the definitions of both expertise indicates that the focus in not only on gathering information about a person to make a diagnosis or concussion about his mental health, but to do so in accordance with legal significance.
The purpose is specified by the tasks of expertise foreseen in legal norms and by the recommended formulations of the psyho-legal questions given in the webpage of The State forensic psychiatry service under the Ministry of Health. In short, mostly tasks are tied with the legal decision about the level of criminal responsibility and competency to proceed. For example, experts have to evaluate the mental

[27]See official page of State forensic psychiatry service under the Ministry of Health. [http://www.vtpt.lt/ekspertine-veikla/]
[28]The Order of Health minster on performance of forensic psychiatric, forensic psychological expertise at the State forensic psychiatry service under the Ministry of Health (2003-08-27, Nr. 82-3767, valid consolidated version 2016-02-20.
[29] The Order of Health minister on the approval of description of the procedure on organizing and performing the forensic psychiatric expertise (2013-06-20, Nr. 65-3272, valid consolidated version 2017-01-01).

state and the ability of the suspected or accused juveniles, taking into account their cognitive functioning level, developmental characteristics, psychological characteristics, emotional state, to understand their actions and control them at the time of alleged offence. The Law of the Forensic Expertise of the Republic of Lithuania foresees the output of the expertise, id est, the formalization of its results.

The report of expertise has three parts: introductory, exploratory and conclusions. The introductory part of the expertise report shall state: the date and place of the expertise report; judge/court decision to assign the expertise; material and questions presented for the expertise; the expert's information (name, surname, education, specialty, expert's qualification, years of experience as the expert); the dates of beginning and end of examinations; the date of request for additional material and its receipt; persons who participated in the expertise. The exploratory part shall contain: objects to be assessed by the expert; the state of the objects and the results of their examination; examinations, their methods and tools; the results and their reasonable evaluation. The conclusions shall state the motivated answers to all referral questions.

2.3. New amendments regarding Individual assessment in accordance with the Directive 2016/800 in Lithuania

As mentioned above the draft of CCP on individual assessment of juvenile suspects in criminal proceedings is provided. The draft provides that after the first interview of the juvenile suspect, but not later than at the end of the pre-trial investigation, the **pre-trial investigation officer or prosecutor** shall apply to the **State Children's Rights Protection Institution specialist** for individual assessment of suspected juvenile in accordance with the procedure established by the Minister of Social Security and Labour of the Republic of Lithuania. The individual assessment of the minor shall be made no later than twenty working days from the date of receipt of the request of the pre-trial investigation officer or prosecutor. The conclusion of the individual assessment of the minor is attached to the case. If the individual assessment of the minor has not been performed before the date of the transfer of the accusation act (indictment) to the court, the accusation act may be transferred to the court if this is not contrary to the interests of the minor. In such a case, the conclusion of the individual assessment of the juvenile accused shall be submitted to the trial court before the beginning of the hearing in court.

The draft also provides that the data provided in the individual assessment report of the juvenile shall be taken into account when selecting the pre-trial and other procedural coercive measures for the juvenile, deciding on the termination of the pre-trial investigation or transferring the case to the court, organizing the proceedings with the minor suspect or accused, deciding on the punishment, imposing penal or educational measures on the juvenile.

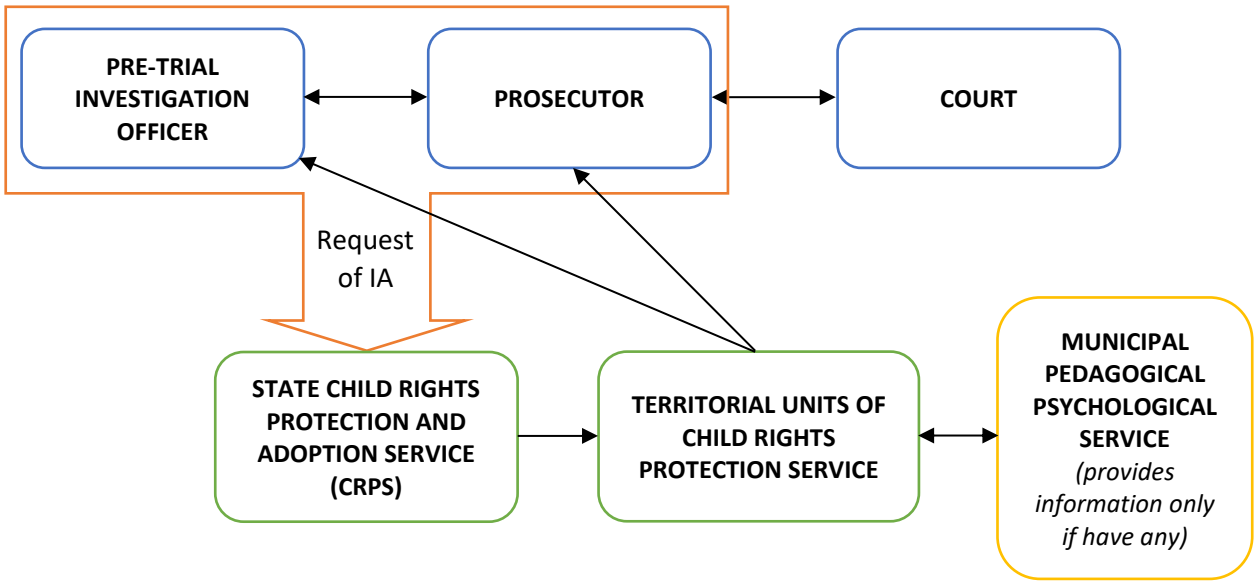
Procedure and institutions responsible for the individual assessment

The draft provides institutions responsible for individual assessment and formal procedures. The preparation of detailed procedures and instruments of individual assessment is delegated to Ministry of Social Security and Labour. The Ministry of Social Security and Labour prepared draft of procedures on minor individual assessment. According to this document that Child Right Protection Service upon receipt of a request for an individual assessment by the investigating officer or prosecutor, shall send it without delay, but no later than 3 working days from the date of receipt of the request, to the Territorial Unit authorized by the Office and inform pre-trial investigation officer and prosecutor. The

Territorial Unit of the Service for the Protection of the Rights of the Child, upon request for an Individual Assessment from a pre-trial investigation officer or prosecutor, shall:

- to summarize the information available to the Service concerning the minor and other known circumstances which, in the opinion of the Service's territorial unit, may be relevant to the pre-trial investigation;
- apply to the Municipal Pedagogical Psychological Service for the provision of data on the minor's special educational needs, personality and maturity assessment;
- if necessary, visit the minor's place of residence and assess his / her living environment;
- draw up the Certificate, containing data about a child, his/her parents and family, as well as provide data about the child's guardian (foster-parent), if the child is subject to guardianship (foster care).

The schema of the procedure of individual assessment could be seen in Figure below.



5 Figure. The procedure of individual assessment of suspected or accused children in criminal proceeding from the 1st of January of 2020.

3. RESULTS OF RESEARCH INTERVIEWS WITH RELEVANT STAKEHOLDERS

3.1. Methodological remarks: research procedure and participants.

In order to address the aim of the research, a multi-method qualitative approach was used: semi-structured interviews and focus groups. The overall purpose of using semi-structured interviewing individually or with group for data collection is to explore key participants' perceptions, interpretations and beliefs in order to gain understanding of a particular topic from their perspective. The semi-structured interviewing is best used for gathering reliable, comparable qualitative data in projects when several interviewers are supposed to collect data on the topic.[30] The interview guidelines- the list of topics and questions needed to be covered during the interview- was developed for this research in English and then translated into relevant languages. An expert (selective/ purposive) sampling technique was applied in the research as the broad goal of the project requires the research to capture knowledge rooted in a particular form of expertise. Qualitative content analysis approach was applied in order to analyze the data collected for this research.

Procedure and Participants

The expert sample was drawn from practitioners of the juvenile criminal judicial system and relevant stakeholders. Data collection for this research took place from August 2019 to October 2019 in three biggest cities: Vilnius, Kaunas and Klaipėda. One week before the interviews, key participants were introduced in written form with the IA-CHILD project as well as with the Directive 2016/800 Article 7. Individual or group interviews were scheduled with key participants at a space and time that was convenient for them. One or two members of the research team conducted the individual or group interviews with experts, whereas individual interview lasted from 35 minutes to 1 hour and focus group- 1,15 hour. Overall 10 interviews were conducted: 6 individual interviews, 2 group interviews and 2 focus groups. 17 experts participated in the research: 10 experts doing and 7 using individual assessment, detailed description is presented below in table No. 5. During interviews the interviewers addressed the questions to experts in the manner of creating space for participants' free verbal expressions. All of the participants gave their oral informed consent to participate in the interview or focus group and all of them signed in the Interviewee list. All interviews conducted for this research were audio-recorded and transcribed verbatim.

All interviews were analysed using content analysis method and analysis is presented diving into relevant topic and separating experts doing the assessment and experts using the assessment.

[30] H.R. Bernard, (2006), Research Methods in Anthropology: Qualitative and Quantitative Approaches. Rowman Altamira.

Table No. 5 Research participants' characteristics

	Interview No.	**Institution**	**Position**
Experts doing IA	1.	State Forensic Psychiatry Service under the Ministry of Health	*Forensic psychologist*
	2.	State Forensic Psychiatry Service under the Ministry of Health	*Forensic psychiatrist*
	3.	Territorial division of Klaipėda, Lithuanian Probation Service.	*Chief specialist*
			Specialist
			Specialist
	4.	Kaunas	*Psychologist*
	5.	Kaunas	*Psychologist*
	6.	State Child Rights Protection and Adoption Service under the Ministry of Social Security	*Chief specialist*
			Specialist of territorial unit.
	7.	Ministry of Social Security and Labour	*Specialist*
Experts using IA	*8.*	Kaunas District Prosecutor's Office	*Prosecutor*
	9.	Klaipėda District Prosecutor's Office	*Prosecutor*
			Prosecutor
	10.	Vilnius District Prosecutor's Office	*Prosecutor*
			Prosecutor
			Prosecutor
			Prosecutor

3.2. Currently available assessments and their objectives, as well as the role of different institutions and their functions

*3.2.1. Experts, **doing the assessment** of children, who are the suspects or accused persons in criminal proceedings **(Doing IA)***

During the research, **four institutions have been identified as participating in the performance of various assessments of minors**. Part of them will continue performing the planned individual assessment from 1 January 2020, meeting the requirements, set out in the Directive. Currently, the assessment of minors during the criminal procedure is performed by the following: psychologists of Kaunas Juvenile Remand Prison-Correction House, specialists of Lithuanian Probation Service, experts of State Service of Forensic Psychiatry under the Ministry of Health, as well as specialists of State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour. During the implementation of requirements, set out in the Directive, the State Child Rights Protection and Adoption Service will be responsible for the performance of individual assessment; therefore, it will be able to receive additional information about the performed assessments from the Pedagogical-Psychological Service. Each of the currently performed assessments will be further discussed in the chapter.

Social Enquiry Report and the START:AV

The current Order of the Director of Prison Department[31] approved a structured professional judgement scheme 'The Short-Term Assessment of Risk and Treatability: Adolescent Version – START: AV' guiding assessment of the risk of adverse outcomes related to harm to others and rule violations, including assessment of both strengths and vulnerabilities of juveniles[32].

Specialists from Kaunas Juvenile Remand Prison-Correction House and Lithuanian Probation Service, who participated in the research, emphasised **the importance of approval of the new methodology START: AV** because, previously, the minors were not subject to any approved instruments. However, the specialists noted that the approval of this instrument has solved only part of the matters, related to the effective work with minors during the criminal procedure. The research participants emphasised that this instrument was used only for the sentenced minors when the social inquiry report should be prepared.

The psychologists of Kaunas Juvenile Remand Prison-Correction House **used semi-structured interview with suspected or accused minors** because methodology of START: AV is not applicable for the suspected or accused persons:

"Only the semi-structured interview. It contains only the matters, set out in the Directive. Let's say that it includes several aspects, but we may also ask him about his education or needs; however, these are only our questions. It is not a methodology.<...> (Psychologist of Kaunas Juvenile Remand Prison-Correction House).

[31] The Order No. V-235 of 14 June 2019 of the Director of Prison Department under the Ministry of Justice on the Assessment of Risk and Approval of Adolescent Version (START: AV).

[32] Klimukienė V. , Laurinavičius A. , Laurinaitytė I., Ustinavičiūtė L. , Baltrūnas M. (2018). Examination of Convergent Validity of Start: AV Ratings among Male Juveniles on Probation // Tarptautinis psichologijos žurnalas: biopsichosocialinis požiūris = International journal of psychology: a biopsychosocial approach. Kaunas: Vytauto Didžiojo universitetas. No. 22, p. 31-54. DOI: 10.7220/2345-024X.22. Retrieved August 23, 2019, [https://repository.mruni.eu/ds2/stream/?#/documents/06a2f276-8e20-4aeb-b87e-46f4672e2a45/page/1]

The above-mentioned excerpt confirms **the lack of the united instrument that could be used during the assessment and planning of the further work** with the suspected and accused persons. Specialists from Lithuanian Probation Service agreed with the opinion expressed by the psychologists of Kaunas Juvenile Remand Prison-Correction House, stating that, **currently, START: AV methodology is established only for the sentenced minors**; therefore, it leads to the inevitable question, regarding the application of methodology for the suspected and accused persons. Although the probation specialists note that the application of OASys risk assessment methodology used for adults in Lithuania is also focused on the sentenced persons; however, after a court requests to prepare a social enquiry report, it is being prepared based on OASys risk assessment. The specialists note that even though such cases are rare, but such practice exists. As it was already mentioned the law imposes a discretion but not obligation to the court to commission the preparation of social inquiry report. Therefore, the analogical practice could also be applied more frequently in cases of suspected or accused minors, for example, when a court requests to prepare a social enquiry report. Thus, START: AV methodology would be used during its preparation. There is no doubt that with a large number of requests, asking to prepare social enquiry reports during the criminal procedure of minors, the workload of probation officers will increase significantly. However, it should be noted that the prepared social enquiry reports would facilitate the further work with probationers after the probation service becomes aware of a part of suspected or accused minors. In summary, it is important to note that although specialists from the house of correction and probation service, working with suspected and accused minors, do not have a united methodology today, but the opportunities to apply the newly approved START: AV methodology in cases of suspected or accused minors should be considered in the nearly future. The assessment of strengths and weaknesses of the suspected and accused minors, performed by using START: AV instrument, could become the initial stage of the systematic and consistent work with under-age offenders.

The Expertise in the Stage of Pre-Trial Investigation and in the Stage of Hearing the Case

The purpose of the psychiatric expertise is to assist the court or judge in answering the specific legal questions requiring knowledge of forensic psychiatry by assessing the person's mental state and ability of the suspected or accused juveniles, taking into account their cognitive functioning level, developmental and psychological characteristics, emotional state, as well as to understand their actions and control them at the time of alleged offence.

According to forensic psychologists and psychiatrists of children and juveniles, **specific matters are examined in their performed expertises, related to the responsibility of the minor and his/her ability to participate in the criminal procedure.** From this viewpoint, the individual assessment of accused and suspected minors poses a little bit different and wider questions. Therefore, the experts who participated in research said that they were limited in legal and functional terms. However, they also noted that based on its form, content and scope of the collected data, their performed expertise may be used, for example, for the individual assessment. During the performance of expertise, data is collected from various institutions about social environment of the minor, learning difficulties and mental health, which are later interpreted, merged and entered in the expert judgement of psychologists and/or psychiatrists. The experts note that, nowadays, different institutions collect data, which should form the basis of an individual assessment, based on their competence. However, from the perspective of research participants, the main issue occurs when such data has to be merged and assessed. In case of an expertise, these functions are being performed by forensic psychologists and/or psychiatrists; however, due to the lack of such specialists and their established and legally regulated

functions, if the forensic specialists and psychologists, who are usually responsible for the interviews of minors during the criminal procedure, would be obliged to prepare the conclusion of individual assessment, set out in the Directive, this process would become extremely complicated.

Another problematic issue, raised by forensic experts, is the quality and particularity of data collected from various institutions:

"<...> information about a person is frequently incomplete or very poor, for example, the schools provide very brief information about a child. Let's say that a family has long-term problems. Even though such family has social and other problems, the relevant authorities do not have any information about it and such services rush to perform an assessment only after the occurrence of an accident. So, if... Or let's say that a minor, who should attend Pedagogical-Psychological Service, has learning difficulties, but his school does not send him to Pedagogical-Psychological Service or his family is not able to travel there. Then there is also no pedagogical-psychological assessment. There is only insufficient information. So, if every institution would work within the limits of its competence and would have and provide a detailed information about such child and his family, then such general assessment that we speak about would be more comprehensive". (Psychologist of the State Service of Forensic Psychiatry).

In summary, it is important to note that in the opinion of research participants, the expert evaluation undoubtedly includes a complex teamwork of different institutions, as well as collection, provision and final generalisation of versatile information, which require specific knowledge and competences in order to reflect the objectives of individual assessment, raised in the Directive. However, the forensic psychologists and psychiatrists could not summarise and provide conclusions of individual assessment, set out in the Directive due to a heavy workload, resulting from the performance of forensic expertises and functions, established in the legislation.

Assessment of the child's economic, social and family background and living environment

According to Article 189^1 provided for in the supplement of Code of Criminal Procedure (CCP), the child rights protection institution is responsible for the individual assessment of the suspected or accused minor. After the receipt of request from pre-trial investigation officer or prosecutor, asking to perform an individual assessment, the territorial division, **authorised by the State Child Rights Protection and Adoption Service (hereinafter – the Service), summarises information about the minor available at the Service and other known circumstances**, which, in the opinion of territorial division, authorised by the Service, may be important for pre-trial investigation. In case of necessity, its representatives also visit the place of residence of the minor, assess his/her residential environment, prepare a certificate containing data about a child, his/her parents and family, as well as provide data about the child's guardian (foster-parent), if the child is subject to guardianship (foster care). Nowadays, data about the residential and educational conditions of a child is also provided to the interested institutions in accordance with cooperation agreement of five parties (Prosecutor General's Office, Police department under the Ministry of the Interior of the Republic of Lithuania, Ministry of Social Security and Labour, State Child Rights Protection and Adoption Service, as well as Children's Rights Ombudsman Institution of the Republic of Lithuania). Based on this agreement, if the State Child Rights Protection and Adoption Service receives a request from the prosecutor or police, it shall provide information at the latest by 7 calendar days from the receipt of request, except for emergency cases, examine family environment and submit all the available or newly checked information about the residential and educational conditions of a minor to the prosecutor or police. Therefore, data provided by Child Rights Protection and Adoption Service, related to the individual assessment of under-age

suspected and accused persons, **will not change substantially after the amendments, set out in the Code of Criminal Procedure**, enter into force. This fact was specifically noted by the specialists of Child Rights Protection and Adoption Service, who participated in the research, and emphasised at the same time that Child Rights Protection and Adoption Service was not frequently contacted, regarding the provision of aforementioned information. After the above-mentioned amendments of the CCP enter into force, the number of inquiries from police or prosecutors should increase; meanwhile, specialists of Child Rights Protection and Adoption service should provide information about educational and residential conditions of the minor in every case; therefore, research participants forecast the increase of workload and lack of human resources. At the same time, the research participants noted that their performed individual assessment will be limited to the assessment and description of educational and residential conditions of the minor. According to Article 189[1] of the CCP, the child rights protection institution is entitled to receive data about **special educational needs of the minor, as well as assessment of personality and maturity from the municipal Pedagogical-Psychological Service**. However, as it was noted by representatives of Vilnius Pedagogical-Psychological Service during the research, the service **shall provide information about child's assessment and special educational needs to other institutions only if such child has already been assessed** by the specialists of the service. The purpose of assessment, performed by the service is "to assess peculiarities and troubles of personal development, pedagogical, psychological, personal and educational problems occurred during the provision of expert support and consulting services to schools and parents (foster parents), regarding education of a child. **The service does not perform assessment, related to suspected and accused minors**."

Therefore, in summary, it is important to note that from the year 2020, the individual assessment of minors, performed by State Child Rights Protection and Adoption Service, will not virtually differ from the one, which is currently set out in the cooperation agreement of five institutions and which is limited to the assessment and description of residential and educational conditions. Moreover, the Pedagogical-Psychological Service will not perform any additional assessment, related to the criminal procedure, and will be able to provide only those assessment results that are related to educational process, if such assessment of the suspected or accused minor was previously performed. The results of such assessment will not be further summarised or interpreted in order to answer questions, related to the criminal procedure.

*3.2.2. Experts **using the assessment** of children who are suspects or accused persons in criminal proceedings **(Using IA)***

The main users of data related to a suspected or accused minor in the criminal procedure are prosecutors, who organise and control the pre-trial investigation. Therefore, the scope of data collected about the accused or suspected minor during the pre-trial investigation is a prerogative of prosecutors. According to the prosecutors, who participated in the research, **it cannot be claimed that, nowadays, an individual assessment of minors is not performed during the pre-trial investigation process.** Various institutions are involved in the data collection procedure related to a minor; meanwhile**, this involvement and multi-agency cooperation is established in aforementioned agreement of five parties**. On the one hand, the below-mentioned quote illustrates the **diversity of the collected data**, but, on the other hand, it reveals that **the scope of data depends on the prosecutors and shows a lack of the united system**:

"<...> we collect a lot of data describing the under-age suspect. As a matter of fact, we collect it from everywhere because we still have to assess it ourselves. The only thing is that such data does not

consist of a single table, template or some kind of calculations. It consists of separate characteristics, certificates, information about previous convictions, probation, health facilities, etc. We require such data from the investigators. We have even prepared a memo for investigators "Regarding the collection of data describing the suspected minors", which I haven't printed today, but it helps them to avoid the confusion because there is no single article, regulating a unified system and telling them what kind of data they should collect about such... <...> That is what we give for investigators. I don't know how other people do, but I believe that not every institution collects such detailed data. However, we have indicated places for the collection of information in paragraphs, for example, all police institutions or probation service, and asked them to indicate how he managed to implement the educational measures, why everything was annulled, to merge the decisions, to indicate health facilities, addiction disorders <...>. We also ask for information about the school and, if a person is employed, then for the characteristics from the place of employment, as well as for a standard information about educational and residential conditions from the State Child Rights Protection and Adoption Service. Of course, I have only what we receive. The State Child Rights Protection and Adoption Service sometimes fill in a little bit more comprehensive table. If they checked a house, then sometimes they provide data they obtained. Sometimes they issue a simple certificate, writing that "There is a single-parent or two-parent family having certain skills". So, we basically have this data and such individual assessment will be later performed by the investigator, prosecutor and finally by court, imposing a sentence or investigating a case, which takes into account the particular details because, if we have a very young suspected minor, then we all understand that he is highly influenced by the surrounding environment. Then such sentence may be mitigated, etc. In such a case, the selected educational measures are a little bit different when the sentence is imposed, when a person is exempted from criminal liability or when enforcement of the sentence is deferred". (Prosecutor of Kaunas District Prosecutor's Office)

According to the prosecutors, who participated in the research, **all data that are currently collected will take more explicitly regulated, unified and mandatory form.** However, according to the research participants, **the scope, particularity or quality of data will not change substantially** due to it. The collected data **will not be supplemented by expert judgements**, which would describe or interpret data.

Currently, **prosecutors interpret different data on their own**. According to them, they are sufficiently competent to interpret it in many cases; however, such interpretation is not sufficient in more complex cases. Therefore, **in more complex cases, the prosecutors ask the forensic specialists for expert assistance regarding the performance of an expertise or the expedience of such expertise**. Hence, during the analysis of approach typical to users (i.e. prosecutors) of collected data about the suspected or accused minor, several crucial moments are revealed. Nowadays, **the scope and diversity of obtained data are sufficient; however, data collection procedures and forms are not regulated**. Such deficiencies should be partly solved by CCP amendments, defining the procedure of individual assessment. However, not in all cases the interpreting skills of prosecutors are sufficient and such interpretation may be caused by subjective factors. Expert assessment of data may be possible only when an expertise is required; however, as it was mentioned in the previous chapter, it is aimed to answer very specific questions during the expertise, related to the accountability of minor and his/her ability to participate, as well as to comprehend the criminal process. It should be noted that the duration of conclusions regarding the expedience of expertise and expertises themselves is very long and aggravating the criminal process; therefore, **the prosecutors frequently avoid using the assistance of forensic experts**.

3.3. Objectives of an individual assessment and its procedure, performed in accordance with Directive (EU) 2016/800

*3.3.1. Experts, **doing the assessment** of children, who are the suspects or accused persons in criminal proceedings **(Doing IA)***

In the opinion of specialists, who participated in the research, as well as who currently assess minors during the criminal process and who will perform an individual assessment after amendments of CCP, related to the implementation of Directive, enters into force, the purpose of the individual **assessment includes the assessment of minor's personality and his/her maturity, as well as minor's needs and social environment**. Such assessment is **most significant when the scope of criminal liability and suitability of educational measures are being determined**. However, the specialists, who participated in the research, **have reasonable doubts whether the assessment**, established from 1 January 2020, **will meet the objectives, set out in the Directive**. They have doubts primarily due to the fact that it is neither planned to summarise data collected during the assessment nor to provide a summarised conclusion:

"Even in cases when a family is well known for a long time, such individual assessment will not be performed the way it is understood in the Directive because the material (from the State Child Rights Protection and Adoption Service – author's comment) will be only collected and supplemented by the information obtained from the Pedagogical-Psychological Service. In order to summarise such conclusion obtained from Pedagogical-Psychological Service and to assess information obtained from us (State Child Rights Protection and Adoption Service – author's comment) and Pedagogical-Psychological Service, special knowledge is required. It is not clear whether the investigators and prosecutors have such knowledge. Although, they may have it. So, it would be necessary to have a separate person – a psychologist, who would do it." (Specialist of State Child Rights Protection and Adoption Service)

In the light of the aforementioned quote and according to the specialists of the State Child Rights Protection and Adoption Service, **the conclusion, assessing and summarising data, should be prepared by relevant specialists**, having a certain qualification and competences. In order to implement the objectives of Directive, competences of pre-trial investigation officers or prosecutors may be insufficient.

Another important moment, noticed by specialists of State Child Rights Protection and Adoption Service, is **the nature of data collected during the assessment**. Based on their functions and competences, specialists of Child Rights Protection and Adoption Service will be able to provide data that is mostly related to the **actual information of a minor**:

"Thus, they would describe what they see, mention the number of rooms, indicate whether a child has a separate space, bed or a writing-desk. Meanwhile, after visiting a family for the first time, we will not be able to tell what kind of emotional bond is formed between a child and his/her parents because they may say: "Everything is all right, we live friendly". This is the way to perceive the actual information. <...> Therefore, such conclusion will be superficial. I would say that it will not be as deep as it could be, if we could actually find it out how that child grew up and why he became the way he is now, as well as how it is necessary to affect him to resocialise. It would be necessary to have one specialist for this process too. I would say that it could be a psychologist, who may assess personality of such child better and tell the reason he became the way he is." (Specialist from the regional division of the State Child Rights Protection and Adoption Service)

So, the research participants point out that **such assessment would reflect only one objective, set out in the Directive, which aim is to assess economic, social and family circumstances**. **Personality**

and maturity of a child will not be assessed or will be assessed only in part after the Pedagogical-Psychological Service provides a conclusion **about peculiarities of personal development of a child, related to participation in the educational process.** However, as it was mentioned above, if the Pedagogical-Psychological Service **has no data about the minor, it is not planned to perform an additional assessment.**

According to the specialists of **Lithuanian Probation Service, who are not included** in the procedure of individual assessment in accordance with the Directive, data obtained from the State Child Rights Protection and Adoption Service and Pedagogical-Psychological Service **should be summarised by the specialists, who directly work with under-age offenders**. Specialists of Lithuanian Probation Service say that their involvement in the procedure of individual assessment is essential because they, **having the instrument helping them to assess dangers and strengths of a person**, could select educational measures most properly. It is also important due to the fact that **they are well aware of measures that are currently applied in Lithuanian Probation Service** for behaviour correction and they know which measures would be most suitable to offer and select for a minor. Probation officers, who participated in the research, shared their experience, saying that they have to **go to court frequently regarding the imposition of additional measures or change of improperly selected measures**. Preparation of social report in case of suspected or accused minors, together with the performance of START:AV assessment and generalisation of data provided by other institutions, **would significantly contribute** to the determination of objectives, set out in the Directive, **the scope of criminal liability and proper selection of a relevant sanction or educational measure**. According to specialists of Lithuanian Probation Service, the procedure of individual assessment could look as follows:

"<...> For example, general information (obtained from the State Child Rights Protection and Adoption Service – author's comment) could be provided during the first step. Then information obtained during the investigation of social maturity of a child, including all the necessary criteria, could be provided during the second step. Then our officers could probably act on such additional information. I believe that they could perform START and provide their conclusions then. Because, as you may see, a child is here not only for his/her social maturity, but due to the committed offence, so, logically, his/her social maturity should be assessed and then the entire essence of the committed crime, including danger, strengths and weaknesses, as well as other factors. Finally, recommendations should be provided regarding the imposition of a sentence. So, the steps should be in the following order: their assessment (provided by other institutions – author's comment), then assessment provided by our probation service and, finally, probation service should provide its conclusions in writing". (Chief Specialist of the Lithuanian Probation Service).

To sum up the approach of specialists, who participated in the research and assessed minors, to amendments, which will enter into force in the beginning of 2020, as well as procedures of individual assessment, it can be concluded that specialists have doubts whether the planned assessment will reflect the objectives of Directive. The research participants feel the lack of a proactive role of psychologists, involved during the assessment of social maturity of a minor, and specialists, who could summarise data obtained from various institutions and provide their conclusions.

*3.3.2. Experts **using the assessment** of children who are suspects or accused persons in criminal proceedings **(Using IA)***

Similar to specialists, who participated in the research and performed the assessment of minors, the assessment users (i.e. prosecutors) state that **the most useful element of assessment**, performed in accordance with the Directive, **is the assessment of social maturity of a minor**. The prosecutors note that they were obliged to collect the descriptive data of minors until now; therefore, the descriptive data provided by the State Child Rights Protection and Adoption Service will not substantially change the assessment of a minor. On the other hand, data collection procedure hasn't been clearly formalized; therefore, after the new procedure of individual assessment enters into force, **the form and scope for the submission of data will be made more specific and unified**.

Prosecutors, who participated in the research, also noted that peculiarities, related to the process of personal development and upbringing, provided by the Pedagogical-Psychological Service, would be useful in every case during which the minor was assessed. **The assessment of ability to learn is important both during the description of a minor and selection of proper educational measures**.

Another important matter, which was topical to the research participants, was assessment of **young adults during the criminal procedure**. The prosecutors emphasised that institutions do not further participate in the assessment of young people, who are between 18 and 21 years of age, **although the personal maturity of such young people often correspond to personal maturity of minors**; therefore, the question, whether such minors may be subject to peculiarities that are typical to liability of minors, remains open.

It can be seen from the research data that **prosecutors' approach to new procedure of individual assessment is quite sceptical** because they **have doubts whether such procedure meets the requirements**, set out in the Directive, and whether it will be as beneficial and meaningful as it is set out in the Directive.

The prosecutors, acting as specialists who perform assessments, emphasized the **need for more intensive involvement of psychologists and significance of the involvement of probation officers**:

"The state looked at this matter only in a formal way. They have not adjusted to the conclusion of social investigation, which was probably targeted and already specialised for such accused or suspected person, and which was performed by Lithuanian Probation Service. They only duplicated functions of such institutions; therefore, we will not get any actual benefit from it. As I told you before, we will collect the same information that we usually collect, i.e. the descriptive data from all other institutions. Unless, it will be collected by a single institution. It could be indicated that, for example, the psychologist has to perform the assessment, couldn't it? Let's say that he will perform a psychological test. His social maturity is realistic. Then we could, probably, customise and make a decision regarding the outcome of the pre-trial investigation. Maybe, we will be able to exempt him from the criminal liability easier, won't we? Maybe, then we will be able to ask for any exemption from liability or lighter sentence before the court, or, in other words, any other actions so that we could benefit from such prevention". (Prosecutor of Klaipėda District Prosecutor's Office)

According to the prosecutors, in order to make individual assessment significant in their work, **data collected by various institutions should be summarised by providing an expert conclusion**. Such conclusion, followed by prosecutors during the criminal procedure, **may be provided by a psychologist, who is included in the list of experts, or a specialist, who is approved by legislation (e.g. probation officer)**. An individual assessment of suspected or accused minor without the submitted descriptive conclusion, interpreted by an expert or specialist, **will be equal to the descriptive data, which was collected until now**. Hence, it is likely that the **new assessment of minors will not make any improvements** in the criminal procedure and objectives of Directive will be implemented only in part.

4. CONCLUSION AND RECOMMENDATIONS

The objective of the report is to present the status quo of legal regulation and practice of the individual assessment of suspected or accused children in the criminal procedure as well as analyse practical experience with a particular emphasis on implementation of Directive 2016/800 in Republic of Lithuania. **The current changing situation in Lithuanian regarding implementation of Directive is focused on enforcement new amendments which are coming into force from 2020**. Hence, conducted qualitative research was based on evaluation of changing legal regulations, its practical implementation and coherence with existing practise.

The main topics that are covered in the data analysis was based on experts, doing and using minors assessment in criminal proceedings, approach **critically evaluating new regulations, revealing its strengths, identifying challenges and discussing possibilities for improvements**.

One of the main **advantages** according experts participated in the research is unified and explicitly regulated, systematized form of data collection in criminal proceedings. The experts revealed that different data from various institutions is collected, however it lacked unified and mandatory form. The obligation to provide data in particular form in every case of suspected or accused minor will be executed by the State Child Rights Protection and Adoption Service. The obligation to include data from Municipal Pedagogical Psychological Service (only in cases when the assessment of minor provided by Municipal Pedagogical Psychological Service is already done) is also seen as an improvement of minor assessment procedure.

However, expert participated in the research identified significant amount of **disadvantages** of amendments and its practical implementation. The experts have reasonable doubts whether the assessment, established from 2020, will meet the objectives, set out in the Directive. They emphasized that assessment would reflect only one objective, which aim is to assess economic, social and family circumstances**.** Moreover experts raised doubts about the nature, scope and quality of data collected during the assessment. Based on their functions and competences, specialists of Child Rights Protection and Adoption Service will be able to provide data that is mostly related to the actual information of a minor.

Personality and maturity of a child will not be assessed or will be assessed only in part after the Pedagogical-Psychological Service provides a conclusion about peculiarities of personal development of a child, exclusively related to participation in the educational process. However, as it was mentioned above, if the Pedagogical-Psychological Service has no data about the minor, it is not planned to perform an additional assessment. The experts using individual assessment pointed significance of evaluation of personality and maturity of a child, therefore a disappointment that it will not be assessed was strongly expressed.

In order to make individual assessment valuable for reaching aims set out in the Directive, data collected by various institutions should be summarised by providing an expert conclusion. Such conclusion, summarizing and interpreting all the data, may be provided by an expert: either a psychologist, who is included in the list of experts, or a specialist, who is approved by legislation (e.g. probation officer). An individual assessment of suspected or accused minor without the submitted

conclusion will be equal to the descriptive data, which was collected until now. Hence, the new assessment of minors could not make any improvements in the criminal procedure and objectives of Directive will be implemented only in part.

Expert discussed **opportunities and provide recommendations** on improvement of new regulation. The experts emphasised the need for more intensive involvement of psychologists and significance of the involvement of probation officers. Lithuanian Probation Service is not included in the procedure of individual assessment, however probation officers noted that their involvement in the procedure of individual assessment is essential because they, having the instrument assessing dangers and strengths of a minor, could significantly contribute to the determination of objectives, set out in the Directive, the scope of criminal liability and proper selection of a relevant sanction or educational measure.

Finally the expert emphasized that complex teamwork of different institutions, as well as collection, provision and final generalisation of versatile information, is crucial ensuring the quality of individual assessment.

Procedural safeguards of accused or suspected children: improving the implementation of the right to individual assessment

IA-CHILD

JUSTICE PROGRAMME, JUST-AG-2017/JUST-JACC-AG-2017

NATIONAL REPORT

CROATIA

Authors of the Report:

Assist.prof. Dora Dodig Hundric, PhD.
Assoc.prof. Neven Ricijas, PhD.
Assist.prof. Anja Mirosavljevic, PhD.
Sabina Mandic, mag.paed.soc.
University of Zagreb
Faculty of Education and Rehabilitation Sciences
Department of Behavioral Disorders
Croatia

October, 2019.
Zagreb, Croatia

Co-funded by the Justice Programme of the European Union

1. JUVENILE JUSTICE SYSTEM AND LEGAL REGULATION OF INDIVIDUAL ASSESSMENT

1.1. Legal background and regulation of the juvenile justice system in the Republic of Croatia

When referring to a juvenile justice system in this text, we mean procedures and interventions proscribed by law that include actions by the police, state attorney's office (public prosecutor office), youth courts and the social welfare system when young people commit criminal offences. In order to understand the Croatian juvenile justice system, it is important to know the provisions of the following mayor laws (Figure 1). They are:

1. Criminal Code[1] (CC)
2. Criminal Procedure Act[2] (CPA)
3. Youth Courts Act[3] (YCA)
4. Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours[4] (LESIJ).

Following the above-mentioned laws, different elements and specific procedures of conducting criminal procedure and juvenile sanctions are also proscribed in specific ordinances that will later be elaborated in more details.

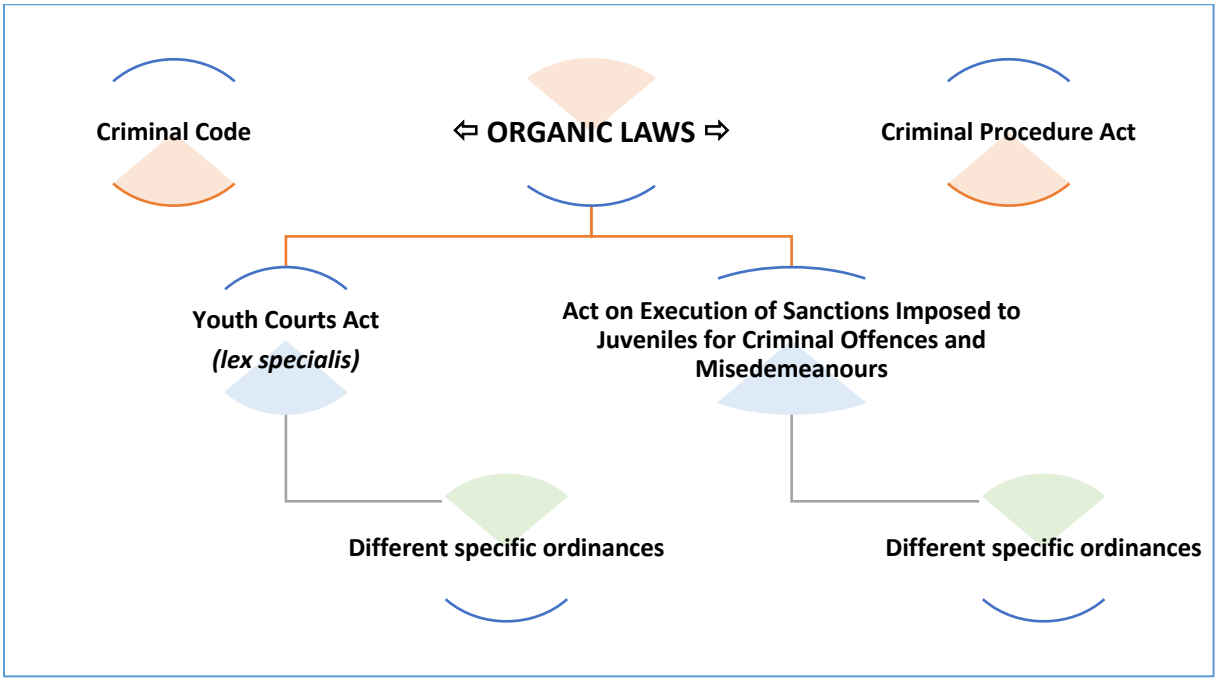


Figure 1: Schematic visualization of major laws proscribing elements of juvenile justice system in the Republic of Croatia

The Criminal Code and the Criminal Procedure Act are organic laws. The Criminal Code proscribes all major elements of the criminal justice system in Croatia, with important elements being definitions of

[1] Criminal Code (Official Gazette 125/11, 144/12, 56/15, 61/15, 101/17, 118/18)
[2] Criminal Procedure Act (Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/12, 152/14, 70/17)
[3] Youth Courts Act (Official Gazette 84/11, 143/12, 148/13, 56/15)
[4] Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours (Official Gezette 133/12)

criminal offences, offenders, minimum age of criminal responsibility, guilt, types of offences with types and length of punishment. Minimum age for criminal responsibility (liability) in the Republic of Croatia is 14 years of age[5] and that age is exclusive. In the legal sense, persons under the age of 14 are considered to be children and are not criminally accountable (responsible). If they commit a criminal offence, it is not possible to react through the criminal justice system but through the system of social welfare pursuant to the Family Act[6] and the Social Welfare Act[7].

The Criminal Code also states that regarding the persons who, at the time of committing the offence, turned 14 years of age, but did not turn 21 years of age, this Law shall be used if a specific law does not proscribe otherwise[8]. The same applies for the Criminal Procedure Act. Since Croatia has a special law for young offenders (*lex specialis*), called the Youth Courts Act, in terms of possible sanctions and criminal procedure, the Criminal Code and the Criminal Procedure Act are used mostly for adult offenders (above 18 years of age), while the Croatian juvenile justice system relies on the Youth Courts Act and the Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours, with the accompanying ordinances. Schematic elements of these laws and provisions are shown in Figure 2.

Primarily, it is important to specify key elements that the Youth Court Acts proscribes. It consists of 5 parts, proscribing all necessary provisions within the juvenile justice system for young offenders and children victims of the crimes. They are:

1. Part One – Introductory provisions

It proscribes the age of perpetrators of criminal offences that this Act refers to, then it stipulates that the general law (the Criminal Code, the Criminal Procedure Act, and similar acts) applies only if it is not stipulated otherwise by this Act, then the European directives that are transposed by this Act into the legal order of the Republic of Croatia, as well as a very important provision that all procedures according to this Act are urgent.

2. Part Two –Juveniles

A specific age categorisation of juveniles is proscribed, as well as all types of juvenile sanctions, their duration, the basic manner of their execution, provisions on youth courts and court procedures, as well as the overall criminal procedure for juveniles.

3. Part Three – Young adults

This part proscribes the application of this Act according to specific age groups of young people who turned 18 but not yet 21, as well as the manner of executing juvenile sanctions for this specific group.

4. Part Four – Criminal-law protection of children

It proscribes very important provisions according to which youth courts are competent in the procedures involving adult perpetrators of criminal offences who committed criminal offences to the detriment of children, i.e. to the detriment of persons below 18 years of age.

5. Part Five – Transitional and final provisions

[5] Article 7, Paragraph 1 of the Criminal Code
[6] Family Act (Official Gazette, 103/15)
[7] Social Welfare Act (Official Gazette, 157/13, 152/14, 99/15, 52/16, 16/17, 130/17)
[8] Article 7, Paragraph 2 of the Criminal Code

It proscribes additional important elements in the context of accompanying ordinances and work standards that derive from this Act and are necessary to achieve good quality functioning of the juvenile justice system.

<table>
<tr><th>MAJOR PROVISIONS</th><th colspan="2">LEGAL ACTS - LAWS</th><th>MAJOR PROVISIONS</th></tr>
<tr><td>▪ criminal offence
▪ criminal offenders
▪ minimum age of criminal responsibility (14 years of age)
▪ guilt
▪ types of offences
▪ types and length of punishments (sanctions)</td><td colspan="2">Criminal Code</td><td>▪ the whole criminal procedure including the work of police, state attorneys, courts and other relevant systems</td></tr>
<tr><td>Lex specialis:
▪ the provisions on the youth courts,
▪ criminal procedure for juvenile offenders,
▪ execution of juvenile sanctions,
▪ regulations on criminal justice protection of children.</td><td>Youth Courts Act</td><td>Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours</td><td>Detailed provisions about the execution of 3 types of juvenile sanctions for juveniles and young adults:
▪ educational measures,
▪ juvenile prison,
▪ security measures.</td></tr>
<tr><td colspan="4">LEGAL ACTS – IMPORTANT ORDINANCES</td></tr>
<tr><td colspan="4">Ordinance on conducting educational measures special obligations, reference to the disciplinary centre, intensified care and supervision, intensified care and supervision with the daily stay in educational institution, referral to educational institution and referral to the special educational institution (Official Gazette 141/2011)</td></tr>
<tr><td colspan="4">Ordinance on conducting educational measure referral to the reformatory (Official Gazette 22/13)</td></tr>
<tr><td colspan="4">Ordinance on conducting the punishment of juvenile prison (Official Gazette 57/13)</td></tr>
<tr><td colspan="4">Ordinance on the work of non-legal professionals within juvenile delinquency and legal-criminal protection of children in state attorney's offices and in courts (Official Gazette 22/2013)</td></tr>
</table>

Figure 2: Schematic visualization of major legal acts and elements they proscribe within the juvenile justice system in the Republic of Croatia

The Croatian juvenile justice system (criminal procedure and possible sanctions) varies among age groups of young offenders. They are schematically presented in Figure 3. In terms of young offenders, children are all persons under the age of 14 at the moment the offence is committed, while juveniles are persons between 14 and 18 years of age. The Law makes a distinction between younger (14-16) and older (16-18) juveniles, with the major difference being that juvenile prison can only be imposed on older juveniles for more severe offences (more than 5 years of imprisonment by according to the general law – the Criminal Code). Young adults are a specific age category, similarly to German and Austrian juvenile justice systems. Depending on the assessment of young adults (their previous criminal behaviour/records, risk assessment and personality traits), as well as the severity of the crime itself, they can be prosecuted and sanctioned as juveniles (young offenders by the Youth Courts Act) or adults (by the Criminal Code). Such assessment is first made by the state attorney, however the court can also change that decision in either direction. It is also important to emphasise that when considering victims of crime, in terminology, all persons under 18 are considered to be children victims.

Age group	0 to 14	14 - 16	16 - 18	18 - 21
Name	Children	Younger juveniles (minors)	Older juveniles (minors)	Young adults
Criminal responsibility	No	Yes	Yes	Yes
Laws proscribing the procedure	Family Act Social Welfare Act	Youth Courts Act	Youth Courts Act	Youth Courts Act or Criminal Code (depending on assessment)
Possible criminal sanctions	Nothing	1. Educational Measures 2. Security Measures	1. Educational Measures 2. Juvenile Prison 3. Security Measures	Depending on the act that will be applied – youth law or general law

Figure 3: Schematic visualization of different age groups and procedure for children and young offenders within the juvenile justice system in the Republic of Croatia

Juvenile sanctions are specific sanctions, proscribed by the Youth Courts Act, and they can be imposed on a young offender only by the youth court, after the entire criminal procedure is conducted and guilt of the young offenders proven. The criminal procedure will be described in more details in Chapter 1.2., but for the purpose of this Chapter and to understand the types of juvenile sanctions, we should present major institutions and professionals included in this process. They are:

1. Police

- specialized youth police officers who work on cases with young people who committed criminal offences

2. State Attorney's Office (also known as the Public Prosecutor's Office)

- specialized youth state attorneys with their non-legal professionals who advise them on criminal procedure for young people

3. Youth Courts

- specialized youth judges with their non-legal professionals

4. Centres for Social Welfare

- specialized social workers, social pedagogues and psychologists included in the entire process for young offenders with the aim to ensure quality of information, assessment and opinion if needed

5. Defence Lawyers

- defence lawyers are the obligatory part of the criminal justice process for young offenders and they can either be chosen privately or it is the state that appoints a lawyer to the juvenile.

There are three types of juvenile sanctions according to the Croatian law: (1) Educational measures, (2) Juvenile prison, and (3) Security measures. There is a broad spectrum of educational measures and the majority of them refers to the community (probation sanctions), with the possibility for judges to combine different educational measures together, especially special obligations, that would best fit the treatment needs of young people (Figure 4).

<table>
<tr><td></td><td></td><td></td><td colspan="3">SYSTEM RESPONSIBLE FOR EXECUTION (IMPLEMENTATION) OF THE JUVENILE SANCTION</td></tr>
<tr><td></td><td></td><td></td><td colspan="2">SOCIAL WELFARE SYSTEM</td><td>JUSTICE SYSTEM</td></tr>
<tr><td rowspan="9">TYPES OF JUVENILE SANCTION</td><td rowspan="8">EDUCATIONAL MEASURES
(a total of 8 measures)</td><td rowspan="5">COMMUNITY SANCTIONS</td><td colspan="2">Special obligations (16 possible obligations) – maximum length 1 year</td><td rowspan="5">Court reprimand
(the juvenile receives verbal and written reprimand at the court, from the youth judge)</td></tr>
<tr><td>1. to apologise to the injured party,
2. to repair or make compensation for the damage done by the offence, according to his or her own abilities,
3. to attend school regularly,
4. not to be absent from workplace,
5. to become trained for an occupation that suits his/her abilities and inclinations,
6. to accept employment and persist in it,
7. to dispose with income under supervision and advice of the person monitoring the correctional measure,
8. to get involved in the work of humanitarian organisations or in the activities relevant for the community or the environment,
9. to refrain from visiting particular places or entertainment events and to stay away from particular persons who have detrimental effect on him/her,</td><td>10. to undergo, with prior consent of his/her legal representative, a professional medical treatment or treatment related to drug addiction or other addictions,
11. to get involved in individual or group psychosocial treatment in youth counselling services,
12. to participate in trainings to obtain professional qualifications,
13. not to leave, for a longer period of time, the place of his or her permanent or habitual residence, without special approval obtained from the centre of social welfare,
14. to have his or her knowledge of traffic regulations tested in the competent institution for drivers' education.
15. not to approach or disturb a victim,
16. other obligations that are appropriate considering the committed criminal offence, personal and family circumstances of the minor.</td></tr>
<tr><td colspan="2">Intensified care and supervision (juvenile probation) - minimum 6 months to maximum 2 years</td></tr>
<tr><td colspan="2">Intensified care and supervision with daily stay in educational institution - minimum 6 months to maximum 2 years</td></tr>
<tr><td>Referral to a Disciplinary Centre - from a couple of hours per day</td><td>to institutional stay up to 3 months maximum</td></tr>
<tr><td colspan="2">Suspended sentence of juvenile imprisonment (juvenile probation)</td></tr>
<tr><td rowspan="3">INSTITUTIONAL SANCTIONS</td><td colspan="2">Referral to an social welfare Educational Institution (open institution) - minimum 6 months to maximum 2 years</td><td rowspan="2"></td></tr>
<tr><td colspan="2">Referral to a Special Educational Institution (open institution) - minimum 6 months to maximum 3 years</td></tr>
<tr><td colspan="2"></td><td>Referral to a Reformatory
(Correctional closed institution) - minimum 6 months to maximum 3 years</td></tr>
<tr><td>PUNISHMENT</td><td colspan="2"></td><td>Juvenile Prison - minimum 6 months to maximum 5 years; and from 5 to 10 years only for extremely severe offences</td></tr>
<tr><td colspan="2">SECURITY MEASURES</td><td colspan="3">▪ psychiatric treatment
▪ addiction treatment
▪ psychosocial treatment
▪ prohibition to drive motor vehicles (only for older juveniles)
▪ prohibition to approach, disturb and stalk the victim
▪ prohibition to access internet,
▪ protective supervision after the prison sentence was fully executed.</td></tr>
</table>

Figure 4: Schematic visualization of juvenile sanctions by the Youth Courts Act, categorized according to the type of sanction and the governmental system responsible for their execution/implementation

As it can be seen in Figure 4, most of the juvenile sanctions are different educational measures that are executed/implemented within the community (as probation sanctions) and conducted within the social welfare system. An important underlying requirement of the Croatian juvenile justice system is the cooperation and collaboration between the police, state attorney's offices, courts and different social welfare institutions (primarily centres for social welfare and social welfare educational institutions). Schematically, this collaboration is presented in Figure 5. Social welfare professionals (social workers, social pedagogues, psychologists) are an important integral part of the juvenile justice system, and they not only work within the social welfare system, but they also work in state attorney's offices and in youth courts as non-legal professionals whose responsibility is to assess youth offenders, to provide professional opinions to state attorneys/youth judges, to conduct certain measures and/or sanctions and to supervise the execution of measures and sanctions (detailed list of their professional tasks is presented in Table 3).

Beside the previously mentioned **principle of urgency**, laws that define the Croatian juvenile justice system proscribe some other important principles as well. These are:

- **the principle of timely sanction** (procedures involving a juvenile and the implementation of imposed sanctions should be conducted in the period when their effect is decisive for the juvenile)
- **the principle of appropriateness** (the purpose of juvenile sanctions is to provide protection, care, assistance and supervision, as well as to ensure a general and professional education, affect the upbringing of juvenile, his/her personality and to strengthen personal accountability with the objective of not having the criminal offence repeated)
- **the principle of confidentiality** (the inquiries on criminal offences and the entire criminal procedure involving a juvenile is secret, the meetings of the court panel are closed for public, the judgment cannot be published and all of the information related to the execution of the sanction is confidential)
- **the principle of graduality** (when possible, considering the personality of juvenile and circumstances of his/her criminal offence, the juvenile is first imposed with a less severe sanction, and then if necessary, the sanction execution can be altered or suspended)
- **the principle of sanction alterability** (each sanction can be replaced with a less or more severe one, depending on the course of its implementation and the circumstances that can affect it)
- **the principle of respecting human dignity, the prohibition of discriminating, torturing, abusing or humiliating a juvenile**
- **the principle of an individualised approach** (the execution of all sanctions is based on a conducted evaluation and a particular program of procedures that is adjusted to criminogenic risk factors).

The principle of graduality logically leans on the **principle of institutionalization as the last resort measure**. As it is seen from the statistics in Chapter 1.3., all sanctions where juvenile offenders are institutionalized (weather within the open institutions of the social welfare system, or closed institutions of the justice system) are rare, and are implemented only in cases when the committed offences are severe, when behavioural problems are defined as high-risk and/or if there has been information about recidivism (usually multi-recidivism). Investigation prison is also rarely used, however in such cases young people should be separated from adult offenders.

All educational measures are flexible in their length. They have their proscribed minimum and maximum (as presented in Figure 4), however the youth judge never pronounces the exact length of that sanction. For example, a juvenile is sanctioned with the measure Intensified Care and Supervision (juvenile probation) which can last from 6 months to 2 years. Every few months (usually every 6 months), the court convenes a control hearing with all parties (juvenile, his/her parents, juvenile

probation officer, social welfare representative – if different, a non-legal professional), and depending on the progress, the particular juvenile sanction can be suspended, continued or changed with a less/more severe one. Such an approach is aimed at motivating juvenile offenders to change their antisocial behaviour.

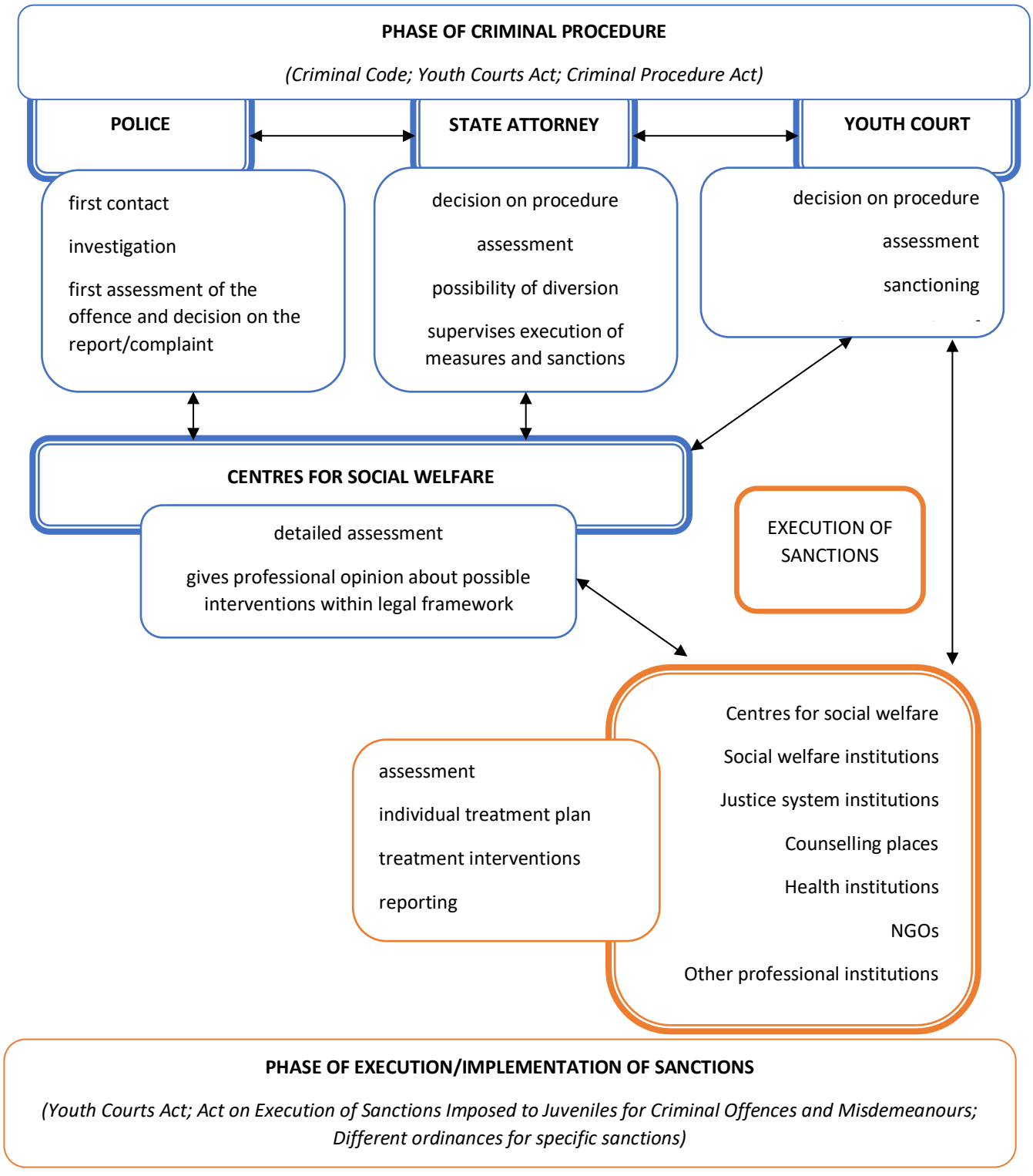


Figure 5: Schematic visualization of major institutional and professional tasks within the juvenile justice system in the Republic of Croatia

The presented scheme in Figure 5 clearly shows that the assessment of a juvenile should be performed in different phases of criminal procedure. In general, before applying any interventions or imposing any decision upon the juvenile, some type of assessment should be conducted (more about types of assessment in Chapter 2). Since the state attorney and youth judge have a considerably wide spectrum of possible legal interventions that they can apply, they should always have justification and explanation for their decisions. They have the possibility to perform an assessment themselves or to contact the social welfare centres to perform and/or organize the assessment of a juvenile for the purposes of criminal procedure.

1.2. Legal criminal procedure for juvenile offenders in the Republic of Croatia

The police work is the first step in understanding criminal procedure, even though in the legal sense, the criminal procedure *per se* starts later (legally, when the preparatory procedure starts – Figure 6). After discovering a criminal offence, youth police officers should file a criminal complaint (criminal report) to a youth state attorney, who then decides on further actions. The Youth Courts Act provides several options to youth state attorneys after the enquiries are completed in this preliminary procedure phase:

1. to dismiss the criminal complaint[9] in cases:

- when the reported offence is not a criminal offence that is prosecuted *ex officio,*
- when the offence is time-barred or an amnesty or pardon was granted, or it was already adjudicated and a final decision already exists, or there are other circumstances that exclude criminal prosecution,
- if there are circumstances that exclude guilt,
- if there is no reasonable suspicion that the suspect committed the reported criminal offence,
- if the information in the complaint suggests that the complaint is not credible.

2. to apply principles of appropriateness/opportunity[10] in cases when there is a reasonable suspicion that a juvenile committed an offence punishable with the prison sentence of up to 5 years of imprisonment or with a monetary fee (for adult offenders according to the Criminal Code – meaning a less serious offence), and the state attorney assesses that the purpose of sanctioning can be achieved without further procedure, but by imposing conditional obligations on a juvenile.
These obligations can be to:

- apologise to the injured party,
- repair the damage done by the offence, according to his or her own abilities,
- participate in the mediation process through out-of-court settlement
- get involved in the work of humanitarian organisations or in the activities having relevance for the community or for the environment
- undergo a rehabilitation program for drugs or other addictions, with prior consent of the juvenile's legal representative

[9] Article 70. of the Youth Courts Act
[10] Article 71. & 72. of the Youth Courts Act

- get involved in an individual or group psychosocial treatment in a youth counselling service centre
- have his or her knowledge of traffic regulations tested in the competent institution for the education of drivers
- fulfill other obligations that are relevant considering the committed criminal offence as well as personal and family circumstances of the juvenile

The execution of one or more obligations is conducted and supervised either by a non-legal professional working at the state attorney's offices or by professionals in the centres for social welfare. If a juvenile receives a positive report on the execution of imposed obligation(s), and the state attorney is satisfied with the report, he/she will dismiss the criminal complaint (charges) and the procedure for the juvenile is completed. These measures are also called community measures and/or diversion measures, since their aim is to divert cases from the court and apply fast and efficient interventions for juvenile offenders, in line with the principle of urgency.

3. to dismiss the criminal complaint due to the fact that a juvenile already has a juvenile sanction imposed, and is currently executing one, and this new offence would not affect the current sanction[11].

4. to propose sanctioning to a youth court and to start with the preparatory procedure, which is, in legal sense, considered as a formal beginning of the criminal procedure towards a juvenile offender.

[11] Article 72. of the Youth Courts Act

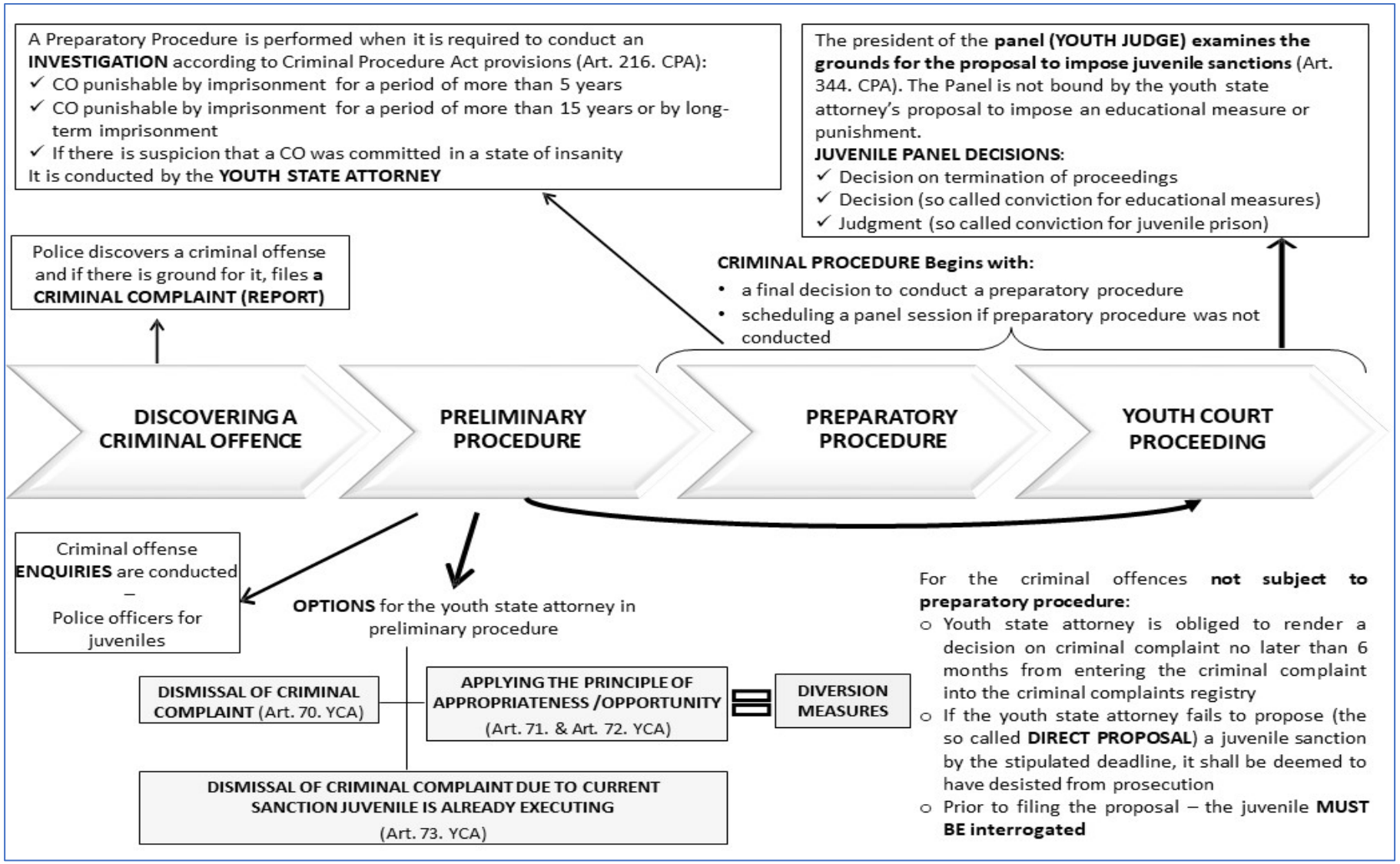


Figure 6: Schematic visualization of the major elements of the criminal procedure for juvenile offenders in the Republic of Croatia

1.3. Official statistics on juvenile delinquency in the Republic of Croatia

In order to present official statistics on juvenile delinquency in the Republic of Croatia from 2014 to 2018, the best methodology to use is the official statistics of the Croatian Bureau of Statistics[12][13][14][15][16] which collects and merges data from the police, state attorney's office and the Ministry of Justice for the youth courts. In this way, the statistics are uniform in their methodology. We also calculated rates of juvenile crime according to the official estimations of the juvenile population (between the age of 14 and 18) and general population (all Croatian citizens), using data for the year 2016 as the mean year from 2014 to 2018.

The data presented in Table 1 shows a decrease in official juvenile crime statistics, and even bigger trends in not accusing and convicting/sanctioning juvenile offenders. Accusing in this term means proposing sanctioning to the youth judge and starting the formal criminal procedure towards the juvenile. The statistics clearly show that dismissals of criminal complaints (reports, criminal charges) are often used, mostly the principle of appropriateness/opportunity where young offenders execute different obligations imposed by a state attorney in order to have the charges dismissed. Therefore, it is clear that around 70% of all criminal charges are dismissed and that diversion measures (community measures) are widely used within the Croatian juvenile justice system.

Table 1: Absolute numbers and rates (per 100,000 residents) of reported, accused and convicted (sanctioned) juvenile offenders from the 2014 to 2018

	2014	2015	2016	2017	2018
REPORTED (APS)	**1.952**	**1.739**	**1.532**	**1.575**	**1.196**
RATE - juveniles[17]	1162,78	1035,90	912,59	938,21	712,44
RATE - population[18]	46,76	41,66	36,70	37,73	28,65
ACCUSED (APS)	**626**	**492**	**422**	**380**	**347**
RATE – juveniles	372,90	293,08	251,38	226,36	206,70
RATE - population	15,00	11,79	10,11	9,10	8,31
CONVICTED/SANCTIONED (APS)	**564**	**420**	**365**	**333**	**302**
RATE - juveniles	335,97	250,19	217,43	198,36	179,89
RATE - population	13,51	10,06	8,74	7,98	7,23

[12] Juvenile Perpetrators of Criminal Offences, Reports, Accusations and Convictions, 2014 Statistical Reports (2015), Croatian Bureau of Statistics

[13] Juvenile Perpetrators of Criminal Offences, Reports, Accusations and Convictions, 2015 Statistical Reports (2016), Croatian Bureau of Statistics

[14] Juvenile Perpetrators of Criminal Offences, Reports, Accusations and Convictions, 2016 Statistical Reports (2017), Croatian Bureau of Statistics

[15] Juvenile Perpetrators of Criminal Offences, Reports, Accusations and Convictions, 2017 Statistical Reports (2018), Croatian Bureau of Statistics

[16] Juvenile Perpetrators of Criminal Offences, Reports, Accusations and Convictions, 2018 Statistical Reports (2019), Croatian Bureau of Statistics

[17] Based on the estimation of persons between the age of 14 and 18 in the year 2016; the Croatian Bureau of Statistics (N=167.873)

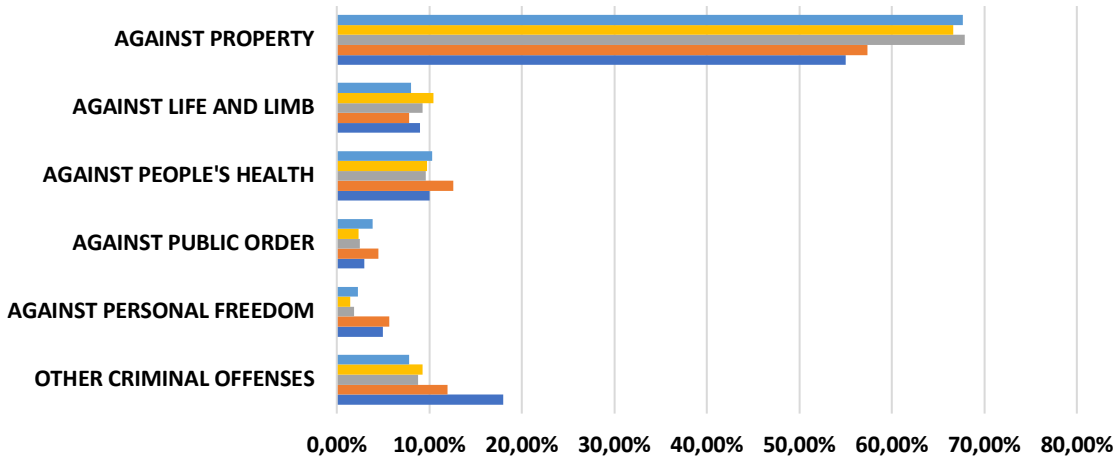
[18] Based on the estimation of total Croatian population in the year 2016; the Croatian Bureau of Statistics (N=4.174.349)

Table 2: Ratio between the reported, accused and convicted male and female juvenile offenders from 2014 to 2018

YEAR	REPORTED		ACCUSED		CONVICTED/SANCTIONED	
	% males	% females	% males	% females	% males	% females
2014	90,7	9,3	93,0	7,0	92,7	7,3
2015	89,2	10,8	92,5	7,5	92,9	7,1
2016	88,4	11,6	89,8	10,2	90,7	9,3
2017	84,6	15,4	88,7	11,3	88,3	11,7
2018	87,9	12,1	88,2	11,8	88,7	11,3
AVERAGE	88,1	11,9	90,4	9,6	90,7	9,3

When analysing the data in Table 2, it is clear that most of the official crime is committed by young boys, and that an average percentage of reported girls is 11,9%, the accused ones is 9,6% and those sanctioned in court is 9,3%.

Figure 7 shows graphic results on the types of offences committed by juvenile offenders between 2014 and 2018. The property offences are steadily the most prevalent ones, representing between 60-70% of all youth crimes. They are mostly different types of thefts and robberies. Offences against life and limb (usually violent behaviour) and against people's health (usually drug offences) are second by prevalence, and they account for around 80% of all juvenile crime in Croatia.

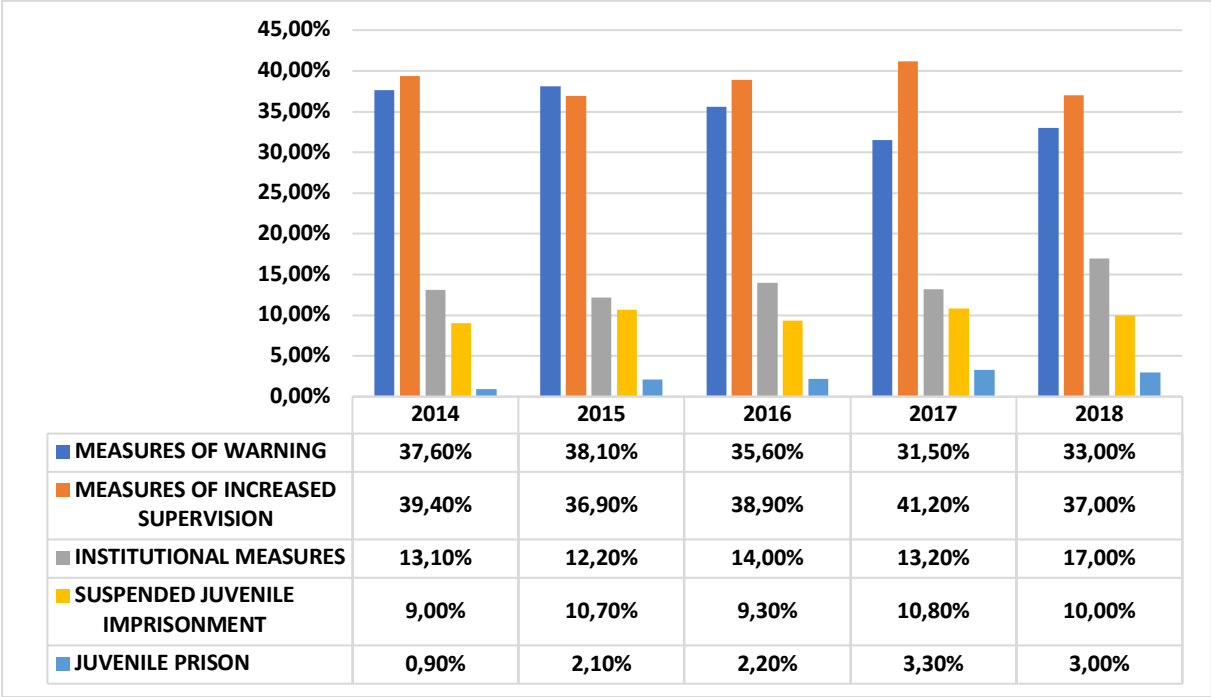


	OTHER CRIMINAL OFFENSES	AGAINST PERSONAL FREEDOM	AGAINST PUBLIC ORDER	AGAINST PEOPLE'S HEALTH	AGAINST LIFE AND LIMB	AGAINST PROPERTY
2014	7,80%	2,30%	3,90%	10,30%	8,00%	67,70%
2015	9,30%	1,43%	2,38%	9,76%	10,47%	66,66%
2016	8,80%	1,90%	2,50%	9,60%	9,30%	67,90%
2017	12,00%	5,70%	4,50%	12,60%	7,80%	57,40%
2018	18,00%	5,00%	3,00%	10,00%	9,00%	55,00%

Figure 7: The percentage of the convicted (sanctioned) juvenile offenders according to the type of the offence from 2014 to 2018

Figure 8 presents the official statistics for sanctioned juvenile offenders. As stated previously, most of the sanctions imposed on juvenile offenders are community sanctions (measures of warning and

measures of increased supervision). We should also add upon that the suspended sentence of juvenile imprisonment, which presumes that a juvenile is sanctioned with a juvenile prison, but stays in the community under certain conditions, and is not placed in prison or in any other institution, is also a community (probation) sanction. Institutional measures make up on average around 15% of all juvenile sanctions: around 13% of the institutional educational measures (social welfare educational institution for children and youth with behavioural problems, reformatory or special educational institution) and around 2% of juveniles are punished by a juvenile prison. The presented statistics confirm the principle of institutionalization as a measure of last resort, which is an important principle of the Croatian juvenile justice system.



	2014	2015	2016	2017	2018
MEASURES OF WARNING	37,60%	38,10%	35,60%	31,50%	33,00%
MEASURES OF INCREASED SUPERVISION	39,40%	36,90%	38,90%	41,20%	37,00%
INSTITUTIONAL MEASURES	13,10%	12,20%	14,00%	13,20%	17,00%
SUSPENDED JUVENILE IMPRISONMENT	9,00%	10,70%	9,30%	10,80%	10,00%
JUVENILE PRISON	0,90%	2,10%	2,20%	3,30%	3,00%

Figure 8: The percentage of youth sanctions imposed on convicted juvenile offenders from the 2014 to 2018

1.4. Legal elements and provisions for conducting individual assessment (IA) of juvenile offenders in the Republic of Croatia

An obligation to conduct an individual assessment (IA) of juvenile offenders in the Republic of Croatia is proscribed directly or indirectly throughout the Youth Courts Act and the Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours, as well as the corresponding ordinances. In order to systematically present legal provisions for IA, we can broadly differentiate between A) the assessment conducted during the criminal procedure and execution of sanctions, and B) the assessment conducted for the purpose of creating an individual treatment plan when a juvenile offender is sanctioned (Figure 9). During the criminal procedure, the State Attorney's Office (SAO) and the Youth Courts (YC), as well as the Centres for Social Welfare (CSW) play the most important role in the assessment, while the Social Welfare System and/or the Justice System conduct the assessment for the purpose of the individual treatment plan when a juvenile offender is being sanctioned.

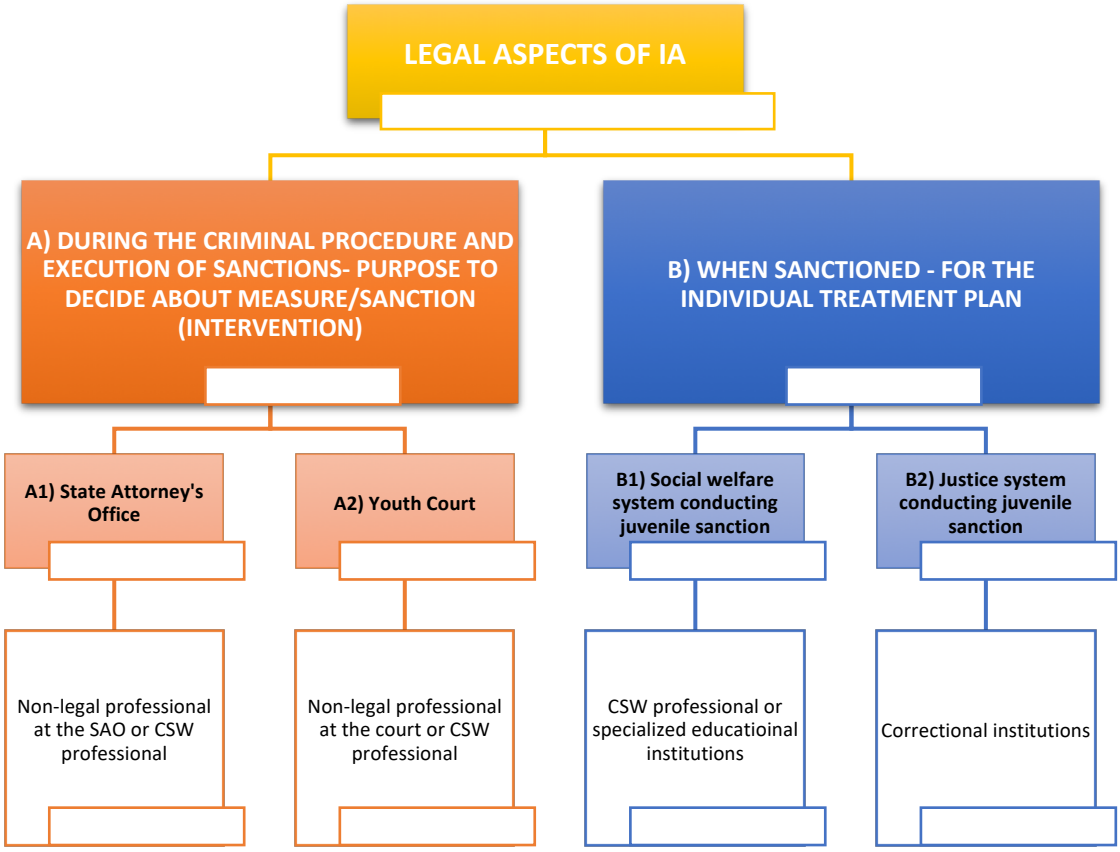


Figure 9: Schematic visualization of legal aspects of individual assessment (IA) according to the phases of the process in the juvenile justice system

A) Assessment during the criminal procedure and the execution of sanctions

The principle of appropriateness, with the emphasis on the legal purpose of sanctioning, presents key elements underlying all the provisions for the process of assessment during the criminal procedure. The Youth Courts Act[19] states that the purpose of juvenile sanctions is to make an impact on a juvenile, by providing protection, care, assistance and supervision and by ensuring general and professional education, on the upbringing, personal development and the strengthening of personal responsibility of a juvenile offender, so that he/she might refrain from repeating a criminal offence. Consequently, all actions and interventions before, during and after the criminal procedure must be aimed at achieving the stated purpose of sanctioning.

The criminal offence enquiries regarding a juvenile can include the collection of data on personal and family circumstances of a juvenile[20]. Also, apart from the reasonable suspicion regarding the committed offence as well as the seriousness of that criminal offence, the state attorney has to take into account the juvenile's characteristics, his/her closer and wider social environment and the attitude towards the criminal offence as well as other circumstances important for further procedures. Before deciding to apply the principle of opportunity (diversion measures), the state attorney has to assess that pursuing criminal procedure towards the juvenile would not be purposeful taking into consideration these personal characteristics. [21] In order to determine these circumstances, the state

[19] Article 6 (Purpose of juvenile sanctions) Youth Courts Act (Official Gazette 84/11, 143/12, 148/13, 56/15)
[20] Article 69, Youth Courts Act (Official Gazette 84/11, 143/12, 148/13, 56/15)
[21] Article 71, Paragraph 1 Youth Courts Act (Official Gazette 84/11, 143/12, 148/13, 56/15)

attorney can request information from the juvenile's parents or guardians, other persons and institutions, and can also request this data to be collected by an expert assistant at the state attorney's office or the social welfare centre. In this part of the report we see the importance of the role of a non-legal professional, either a social pedagogue or a social worker, employed in the state attorney's office. The state attorney must also notify the social welfare centre about his/her decision[22]. The obligations that the state attorney can impose on the juvenile, conditioning his/her further procedure, have already been stated in Chapter 1.2.

On the other hand, the state attorney can, pursuant to a completed assessment, conclude to submit a proposal for sanctioning to the youth court and thereby initiate officially criminal proceedings towards the juvenile (see Figure 6).

The youth court also conducts an assessment to see if there are grounds to initiate criminal proceedings towards the juvenile and has the possibility to dismiss the criminal complaint. In case the procedure is initiated, throughout the entire court proceedings, the youth judge is provided with various aspects of psychosocial assessment by a non-legal professional employed at the court, whereas some particular assessment elements can be requested also from the social welfare centre and/or other social and health care institutions. This shows a clear intention of the legislator to incorporate the work of experts of psychosocial profile who have the knowledge and understanding of developmental and behavioural features of young people into the daily work of youth state attorneys and youth judges.

Their importance is additionally reflected in the provisions of the Youth Courts Act[23] which stipulates that while selecting educational measures, the court shall take into consideration numerous circumstances such as:

- the juvenile's age
- his/her physical and mental development and personality traits
- severity and nature of committed offence
- motives for and circumstances in which he/she committed the offence
- his/her behaviour after committing the offence and particularly whether he/she tried to prevent, if possible, the occurrence of damage or if he/she made any efforts to repair the damage
- his/her relation towards the injured party and victim
- his/her personal and family circumstances
- whether there is a previous criminal record and if he/she had been imposed with a juvenile sanction
- all circumstances that may affect the choice of such educational measure that is best suited to achieve the purpose of educational measures

The stated provision clearly shows that a legal professional, i.e. a youth judge cannot independently collect the stated information and conduct a comprehensive assessment of all features that need to be taken into consideration, which is why the work of non-legal professionals, as well as the cooperation with social welfare centres is necessary.

In order to establish a high quality and systematic description of the scope of work of expert assistants (both in state attorney's offices and in youth courts), the Republic of Croatia developed the previously

[22] Article 71, Paragraph 3, Youth Courts Act (Official Gazette 84/11, 143/12, 148/13, 56/15)

[23] Article 8, Youth Courts Act (Official Gazette 84/11, 143/12, 148/13, 56/15)'

stated Ordinance on the work of non-legal professionals within juvenile delinquency and legal-criminal protection of children in state attorney's offices and in courts[24]. Their main tasks are presented according to the criminal procedure phases in Table 3 showing a clear direct or indirect need to conduct an assessment of a juvenile or his/her traits whether in the phase of deciding on a sanction or in the phase of monitoring the execution of sanctions that have already been imposed on the juvenile.

[24] Ordinance on the work of non-legal professionals within juvenile delinquency and legal-criminal protection of children in state attorney's offices and in courts (Official Gazette 22/2013)

Table 3: Tasks of non-legal professionals in state attorney's offices and in youth courts in different phases of criminal proceedings and execution of juvenile sanctions

	Non-legal professionals in state attorney's offices	Non-legal professionals in youth courts
TASKS DURING PRE-TRIAL PROCEDURE	Tasks of a non-legal professional at a state attorney's office during the pre-trial procedure towards juvenile offenders are: 1. assessment of criminogenic risk and protective factors of a juvenile and his personal, family and school aspects, and development of a written expert opinion on the grounds for applying the principle of appropriateness 2. participation in the mediation process with state attorney while deciding on the criminal complaint for the criminal offence with elements of violence, 3. supervision of the execution of ordered special obligations while applying conditioned appropriateness in cooperation with social welfare centres, non-governmental organisations and other expert services and institutions where the ordered special obligations are implemented, 4. holding control hearings on the course of execution of the ordered special obligations while applying conditioned appropriateness 5. implementation of specific special obligations, 6. development of the written expert opinion for the youth state attorney on the results of the ordered special obligations, with a proposal for further procedures, 7. participation in the interrogation of the juvenile during evidentiary actions, particularly in cases when a special expert approach is needed considering the juvenile's phyisical and mental state and capabilities, 8. providing a clarified opinion and proposal to the youth state attorney on the adequate juvenile sanction after evidentiary actions have been completed by the state attorney in juvenile cases, 9. providing a clarified proposal, upon the request from the youth state attorney, for the implementation of juvenile criminal justice sanctions or general criminal law in criminal cases towards younger adults 10. providing expert assistance to the youth state attorney in the process of notifying social welfare centres when, during the criminal procedure, such facts have been determined that it is necessary to conduct measures to protect the rights and benefits of juvenile	Tasks of a non-legal professional in court related to the measures of securing the presence of the juvenile, as well as other measures are: 1. assessment of criminogenic risk and protective factors of a juvenile and his personal, family and school aspects with the purpose of providing an expert opinion on the need to impose temporary measures or detention on the juvenile, 2. assessment of criminogenic risk and protective factors of a juvenile and his personal, family and school aspects with the purpose of providing an expert opinion on the grounds for the juvenile's temporary placement and control of it, 3. participation in supervising the execution of the juvenile's detention

TASKS WHILE SANCTIONS ARE BEING IMPOSED		Tasks of a non-legal professional in court while sanctions are being imposed on juvenile offenders are: 1. expert assessment and development of a synthesized written opinion with a proposal of juvenile sanction, and providing an opinion and proposal of the type of sanction at the panel meeting or main hearing, 2. providing expert assistance to the youth judge in the process of notifying social welfare centre when such facts are identified in the criminal procedure that they point towards the need to implement adequate measures for the protection of the juvenile's rights and benefits, 3. expert assessment of younger adults who committed criminal offences and providing an opinion and proposal on the justification to apply the provisions of juvenile criminal justice sanctions or general criminal law, as well as reporting it orally at the main hearing
TASKS DURING JUVENILE SANCTION EXECUTION	Tasks of a non-legal professional at a state attorney's office during the execution of criminal justice sanctions imposed on juvenile offenders are: 1. monitoring the results of the execution of the imposed educational measures with the purpose of providing clarified expert opinion and proposal to the youth state attorney on the need to replace the educational measure, i.e. on the justification to suspend the execution of the educational measure 2. participating in visits to juveniles placed in institutions and preparing a written report on the organisation of work in institutions, living conditions there and the efficiency of the imposed educational measure.	Tasks of a non-legal professional in court during the execution of criminal justice sanctions imposed on juvenile offenders are: 1. participating in the development and implementation of individual treatment plan of the educational measures execution, 2. convening control hearings for the purpose of supervising the execution of educational measures, and monitoring the achievement of intervention objectives defined in the individual treatment plan invoked by the juvenile, his legal representative or guardian, supervisor or educational measure, representative of the social welfare centre or the institution where the measure is being executed, 3. providing a written and clarified proposal to the youth judge on the needs to replace or suspend the execution of the educational measure, after having examined all relevant circumstances of the course of execution of educational measure, 4. providing a written and clarified opinion at the panel meetings on the possibilities to apply a parole to the juvenile instead of the juvenile prison sentence, 5. participating in the implementation of the post-penal admission of juveniles during the time of parole, from the reformatory and juvenile prison, in cooperation with the competent services of social welfare, health care, judiciary and education systems, 6. participating in visits to juveniles placed in institutions and writing written reports on the organisation of work in institutions, living conditions there and the efficiency of the imposed educational measure.

B) Assessment for individual treatment plan – when a juvenile is sanctioned

Execution of every juvenile sanction is based on the individual treatment plan, emphasising the principle of individual approach. This is the fundamental document created by an appointed professional, in cooperation with a juvenile, his parents/guardians and other professionals, that elaborates all the risk/protective factors with the procedural steps, methods, aims and deadlines expected to be performed during the execution of the sanction.

The Act on the Execution of Sanction Imposed to Juveniles for Criminal offences and Misdemeanours specifically states[25] that the execution of sanctions is based on the individual treatment plan for a juvenile which is adjusted to the greatest possible extent to the estimated criminogenic risk factors related to his/her personality as well as the wider and closer social environment and is harmonised with contemporary scientific and practical achievements. Also, during the execution of sanctions, the juvenile must have the opportunity to attend regular school programs.

According to the same Act[26], the individual treatment plan is jointly developed, examined and supplemented by the educator, expert assistant at the social welfare centre, expert assistant at the competent youth court, juvenile, parent or guardian as well as other persons who can contribute to the execution of the educational measure. The plan is developed on the following basis:

- analysis of the juvenile's personality and behaviour
- information on the family situation and relations,
- information on the juvenile's school attendance and attitude towards curricular obligations
- information on free time activities
- the juvenile's skills, interests and habits in life
- the juvenile's special needs
- other circumstances that can significantly affect the development of personal responsibility and prosocial behaviour

An individual treatment plan contains the following:

- overview of identified problems and needs of the juvenile
- objectives, field of action
- professional methods and procedures
- special treatment programs
- behaviour risk assessment
- persons who perform tasks
- deadlines for the completion of all planned activities

The program is submitted to the youth court that supervises the execution of the educuational measure which has to be examined and monitored at least once in three months. The important element is the participatory approach, i.e. the fact that the program is developed in cooperation with the juvenile and his parents/guardians who sign it, which means that by signing it they accept it.

[25] Article 7, Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours (Official Gezette 133/12)

[26] Article 13, Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours (Official Gezette 133/12)

HARMONIZATION OF THE YOUTH COURTS ACT IN THE NEW AMENDMENTS WITH THE DIRECTIVE (EU) 2016/800

This proposal of the act presents the fourth amendments to the Youth Courts Act which are primarily the result of the harmonisation process of the national legislation with the *acquis communautaire* of the European Union through the transposition and implementation of the Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused in criminal proceedings (SL L 132, 21. 5. 2016.) – hereinafter: the Directive.
Apart from this, it was necessary to harmonise the Youth Courts Act with the Amendments to the Criminal Procedure Act („Official Gazette, no. 70/17) where Article 208.a has introduced police interrogation of a suspect as an activity having evidentiary strength.

The Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings determines the procedural safeguards to ensure that when the children i.e. persons below the age of 18 are suspects or accused in criminal proceedings, they can understand and follow the proceedings and have the right to a fair trial. The safeguards should also ensure that the children are prevented from repeating the criminal offence and should encourage their social integration. Even though the juvenile criminal justice legislation in the Republic of Croatia has been harmonised to a great extent with the provisions of the above stated Directive, it was nevertheless necessary to implement certain amendments in relation to the procedural position of juveniles. Therefore, the intention of this proposal of the Act is to insert in the Youth Courts Act the provisions on the contents of the letter of rights for juveniles (paras 1 and 2 of the new Article 53.a of the Yourth Courts Act), in order to transpose Article 4 of the Directive. The stipulated letter of rights for juveniles represents an expansion of the letter of rights contents stipulated in Article 108.a, para 1; Art. 208.a, para 2 and Art. 239, para 1 of the Criminal Procedure Act, and depending on the phase of the procedure, the letter of rights is supplemented with the juvenile's rights pursuant to Article 1, para 1 of the Directive. What is further stipulated is also the manner in which a juvenile must be informed of the meaning of his/her rights, with the objective to transpose Article 4, para 2 of the Directive.
Furthermore, by means of Art. 53.a, paragraphs 3, 4, 5 and 6 of the Youth Courts Act, the obligation of informing the holder of parental responsibility of the juvenile's rights is also introduced, i.e. the obligation to deliver the letter of juvenile's rights to the parent or guardian. Also, further stipulated are the circumstances in which the information, i.e. the letter of juveniles's rights is provided to another corresponding adult, in order to transpose Article 5 of the Directive.

The new Article 53.b proposing the transposition of Article 15 of the Directive stipulates the juvenile's right to be accompanied by parents, guardians or another corresponding adult throughout the proceedings. During the interrogation, before the court and the court proceedings, the juvenile can always invoke this right. However, in the course of other steps in the proceedings, invoking the right to be accompanied is conditioned by the principle that it has to be in the juvenile's best interest and that the presence of parents or guardians would not jeopardize the criminal proceedings. The circumstances in which the juvenile will have the right to be accompanied by another corresponding adult are stipulated, as well as the conditions in which a juvenile can waive his/her right to be accompanied.

The application of Article 53.a, paras 3 to 6 and Article 53.b of the Youth Courts Act is excluded in the proceedings against the offender who turned 21 during the proceedings.

For the purpose of transposing Article 6 of the Directive, amendments are proposed in Article 54 of the Youth Courts Acts according to which the obligatory defense for a juvenile would be moved to the earliest phase of the proceedings. In order to transpose Article 7 of the Directive, an obligation is stipulated for the court to determine on the basis of the report of the expert assistant, social welfare centre or other professionals or entities whether any significant changes occurred during the proceedings in relation to the information referred to in Article 78 of the Youth Courts Act. The obligation is stipulated also for the expert assistant, social welfare centre or other professionals or entities to develop the stated report. In relation to that, Article 84, para 1 of the Youth Courts Act is amended whereby a representative of the social welfare centre and the non-legal professional in court would be invited to join the panel session.

Furthermore, Article 63 of the Youth Courts Act is proposed to be amended so that the requirements referred to in Article 8 of the Directive regarding a medical examination of the arrested juvenile, as well as recording the conclusions and using the results of the medical examination, would be introduced into the national legislation.

The transposition of Article 12, para 3 of the Directive is ensured by stipulating that a juvenile who turns 18 while in pre-court detention shall remain in the closed reformatory institution if that is justified considering the circumstances in relation to the juvenile and if that is in accordance with the best interests of other juveniles placed together with him/her. The transposition of Article 22 of the Directive, according to which the Member States cover the costs generated due to the implementation of Articles 7, 8 and 9 of the Directive, regardless of the proceedings outcome except in relation to the costs generated by the implementation of Article 8 of the Directive if those costs are covered by health insurance, is conducted by adding the corresponding paragraph 3 in Article 89 of the Youth Courts Act.

Apart from harmonising the Youth Courts Act with the Directive, it was also necessary to conduct the harmonisation with the Act on Amendments to the Criminal Procedure Act („Official Gazette“, no. 70/17) whereby the police interrogation is introduced as an action having evidentiary strength. Therefore, Article 76 of the Youth Courts Act was amended so that the interrogation of juvenile is conducted by the police pursuant to the provisions of the Youth Courts Act and the Criminal Procedure Act. The interrogation of the juvenile is the first evidentiary action to be conducted by the state attorney, apart from urgent evidentiary actions, when a juvenile has not been interrogated by the police or the youth judge. Nevertheless, for the criminal offences in the competence of the County Court, a juvenile must be interrogated by the state attorney or youth judge in order to ensure that in the procedure for more severe criminal offences, the formal evidentiary action of interrogating a juvenile has been conducted.

The proposed amendments to the Youth Courts Act shall ensure the transposition of provisions of the Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, as well as the harmonisation of the national legislation with it. As a consequence of the stated transposition, the new procedural safeguards for children who are suspects or accused persons in criminal proceedings shall be introducted into the Youth Courts Act which will strengthen their procedural position.

2. ASSESSMENT OF JUVENILE OFFENDERS – LITERATURE REVIEW

2.1. Theoretical background of individual assessment and types of assessment within the juvenile justice system

Considering the explained legal basis of the assessment in the previous chapter, it is clear that the assessment of juvenile offender, depending on its purpose and objectives, is conducted predominantly within the two systems that cooperate closely:

1) **justice system** (when the assessment is conducted for own purposes of the court/state attorney's office, by the social pedagogues and social workers employed in those institutions);
2) **social welfare system** (when the assessment is conducted for the purposes of the bodies that ordered it – the court or state attorney's office, in order to make a decision on own further procedures or an adequate intervention).

Also, depending on the specific features of the juvenile and the criminal offence, the assessment is sometimes conducted in the **health care system.**

The theoretical background of the assessment (Figure 10) is based on the **eclectic approach**, numerous **psychological, social and biological factors** affecting the behaviour of a human being which assumes an integration of knowledge acquired from a large number of theories. Therefore, the majority of practitioners more often opt for the eclectic approach, as opposed to the individual theoretical approach to human behavior, thus integrating in their work and using, for example, the knowledge of humanistic theory, the system theories, the biological theories, the cognitive-behavioural theory, the ecological systems theory, the theory of risk and protection factors, and others. Due to the complexity of human behaviour, the emphasis of the assessment is also on the need to take into consideration different perspectives while identifying, interpreting, planning, changing and evaluating the behavior, but simultaneously respecting the comprehensive aspect **and a holistic approach**, as well as a greater focus on the **beneficiaries' participation**[27]**.** The experts in their work thus use the so-called **mini-theories** as well as specific knowledge depending on what is being assessed and to what purpose[28]. Mini-theories are interpretations referring to one or more components of what is being assessed (that means that, for example, if we are interested in the contribution and influence of family factors, we will use specific knowledge of the family system theory or the attachment theory).

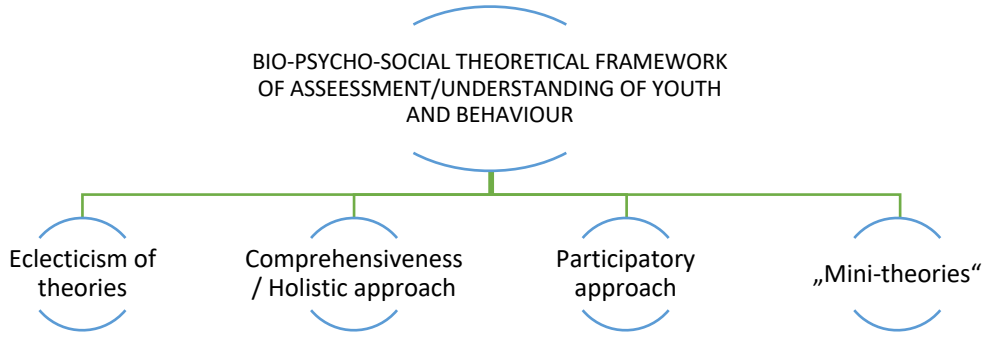


Figure 10: Overview of theoretical framework of the juveniles' needs assessment

Depending on the approach, purpose, objective, diagnostic issues, focus, assessment steps and other elements, broadly speaking, we distinguish:

[27] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017). Needs Assessment of Children and Youth with Behavior Disorders - Conceptual and Methodical Guidelines. UNICEF Office for Croatia: Zagreb.

[28] Vulić Prtorić, A. (2001). Developmental Psychopathology: Normal Development That Has Gone Wrong. Developmental Psychopathology, 40, 17, p. 161-186.

A) **Treatment (therapy) assessment** is divided into:
   1) **detection/triage/screening/selection** (dividing juveniles into groups according to the type and urgency of procedure; identifying problem development risks and less severe behavioral problems or a greater criminogenic risk; indications for a deeper, more comprehensive assessment, etc.),
   2) **(comprehensive) assessment** (ample and complex form of the assessment of needs, criminogenic risk, juvenile's strength and environment in relation to the already intense behavioural problems within which there are also differences in the assessment levels; assessment of intervention needs of juveniles; etiology and phenomenology of behavioural problems; mental health assessment, biopsychosocial component of legal/judicial issue; intervention proposal; evaluation of intervention efficiency, etc.),

B) **Forensic evaluation** (assessment, witness expert analysis) which is the so-called judicial, "legal" evaluation and deals with a specific legal issue or dilemma that is in focus (how cognitive, emotional and behavioural aspects are related to a specific legal issue that is to be resolved). That is dealt with by expert witnesses (forensic psychologist/psychiatrist, and also other professionals).

Furthermore, the assessment can also (considering the purpose, manner of implementation and **level of decision making**) be observed in two levels[29] which are present in Croatia to a large extent:

1) **the assessment macrolevel,** oriented towards the **general decision making** within the justice system on further procedures conducted towards a juvenile/an intervention proposal
2) **the assessment microlevel,** oriented towards **particular treatment guidelines,** and is conducted after or simultaneously with the macrolevel of assessment with the objective to define the particular treatment/measure/sanction.

For the purposes of justice system, the assessment is usually conducted **with the objective to provide an opinion and proposal on procedures or to select an adequate sanction/measure.** Since the purpose of the most frequently used assessment is to propose and plan further interventions for juvenile offenders in accordance with the assessed needs for interventions (through sanctions, but also interventions from other systems), its objective therefore is most frequently to collect, analyse and interpret the data on features, risks and strengths of children and youth with behavioural problems as well as their intervention needs, but also the features, risks and possibilities of their environment to satisfy those needs[30]. The basic objective is, on the basis of the assessment of phenomenology of (possible) behavioural problems of juveniles, the etiology of problems and daily functioning of juveniles in various areas of life, **to match risks, needs and strengths of a beneficiary and his/her environment with the type, level and elements of interventions.** There are several ways of performing this, therefore two basic approaches to assessment are present in practice, **depending on the manner of collecting and interpreting data** on a juvenile and his/her environment which is not mutually exclusive but complementary and jointly used[31]. Those are:

[29] Von Aster, M.G., Reitzle, M., Steinhausen, H.-C. (1994). Differentielle Therapeutische und Paedagogische Entscheidungen in der Behandlung von Kindern und Jugendlichen. Psychoterapeut, 39, p. 360-367.
[30] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.
[31] Nikolić, B., Koller-Trbović, N., Žižak, A. (2002). Metric Characteristics of the Risk Needs Assessment Form. Croatian Review of Rehabilitation Research, 38, 1, p. 103-120.

1) **Actuarial or statistical approach** is the so-called science-based approach which is objective, measurable, based on standardized instruments of assessing various aspects and dimensions of personality, emotions, behavior, criminogenic risk etc.
2) **Clinical and constructivist approach** which is qualitative, based on the implementation of diagnostic semistructured interviews and complementary methods and techniques, it is participatory, oriented to positive aspects as well as strengths of beneficiaries and their environment, empowerment of beneficiaries etc.

It is clear from the above-mentioned that there are different types and models of assessment as well as different approaches to the needs assessment of the youth in conflict with the law (and beyond that – youth with behavioural problems in general), just as there are different purposes and needs for which the assessment is conducted. In relation to the youth in conflict with the law, **an assessment** is defined **as a precondition/assumption for decisions made by state attorneys or youth judges on (un)imposing sanctions and/or measures.** Considering that the measures and sanctions for juveniles and younger adults range from criminal complaint dismissal to reformatory educational measures and juvenile prison, the requirement to have a quality assessment of juvenile's needs is understandable. The legislation in Croatia respects the international guidelines and recommendations on procedures towards the youth in conflict with the law and integrates them in the contents of relevant acts. Apart from what has already been mentioned, there are also numerous special documents related to the youth in conflict with the law, emphasizing the need and necessity to perform assessment for the purpose of selecting adequate treatment. Both previous and current Croatian legislation (as well as the Directive) send a clear message of the basis on which the relevant decisions and proposals are made. It can be therefore interpreted that there is a need for screening, as well as a multi-dimensional, multi-professional and interdisciplinary assessment/approach to the youth in conflict with the law, an assessment of individual factors of juveniles and environment (family, school, peers), possibilities for interventions in practice etc [32].

One of the so far **most present criteria in the division of assessment types in Croatia** refers **to the level of institutionalization**, i.e. the **level of separating a juvenile from his/her family** and the primary environment where the juvenile lives, as shown in Figure 11[33].

[32] Žižak, A., Koller-Trbović, N. (1999). Intervention Measures for Juvenile Perpetrators of Crimes. Croatian Annual of Criminal Law and Practice, 6, 2, p. 767-789.
[33] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.

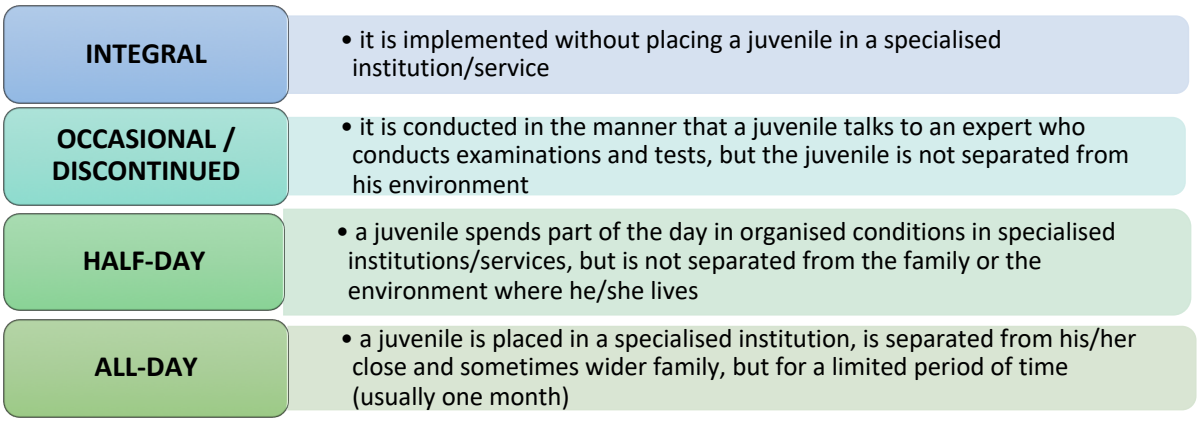


Figure 11: Types of assessment in relation to the environment where the assessment is conducted and to the level of separation

The decision on the type of assessment that will be conducted in relation to a particular juvenile is made depending on the situation and each particular case, i.e. the specific features of the type and intensity of risk as well as problems of the juvenile in relation to the consequences, severity and the degree of danger arising from the behaviour for the juvenile and/or environment, the need to protect the juvenile and/or environment, but also depending on the features of the criminal offence, the attitude of the juvenile towards the committed criminal offence and the victim, his/her readiness to cooperate, undergo an intervetion, change etc [34]. Basically, if the criteria in a paricular case are more serious and unfavourable, then it is the more intensive and higher levels of assessment that are selected and proposed.

The next overview is a detailed description of the two levels of assessment that are most frequently used in cases of juveniles in conflict with the law[35]:

1) **Occasional/discontinued assessment** is the type of assessment when a juvenile is not separated from his/her familiy and wider environment. It is conducted by a team of experts in specific services and institutions (such as the social welfare centres, state attorney's offices, courts, health care centres and clinics as well as hospitals). That means that the juvenile and his/her parents/guardians upon an invitation and in agreement with members of the team of experts from the corresponding institution undergo tests and examinations, and participate in conversations in the duration of several hours on specific days. They are primarily in contact with a social worker or a social pedagogue and if necessary with other team members, in particular a psychiatrist or psychologist. This is a short-term assessment and is oriented towards an individual approach. Despite numerous disadvantages, this assessment type is mostly used today in practice. Advantages and disadvantages of this assessment type are listed in Table 4.

Table 4: Advantages and disadvantages of the occasional or discontinued assessment of juvenile

[34] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.
[35] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.

Disadvantages	Advantages
○ Occasional meetings of the juvenile with particular experts from the assessment team, at a fixed time, for a few hours, in the expert's office ○ Oriented towards static questioning and the so-called traditional approach; ○ Unnatural conditions of conducting the assessment, therefore objectivity is questionable; ○ Possible problems in establishing relations with juvenile/parents; ○ The problem of motivating the beneficiary to cooperate; ○ It is only possible to partially assess the treatment approaches and procedures in daily situations as well as in relation to and interaction with others;	○ A juvenile is not separated from his family ○ Nobody is stigmatized because it is possible to ensure confidentiality of procedure; also the young person and his/her family can be protected from a judgemental community; ○ Less intensive assessment as opposed to other types; ○ This assessment type is well accepted by juveniles and their families

2) **All-day assessment/placement** refers to a systematic and planned process of assessing a young person in different life situations and duringa a 24-hour stay in an institution in the period of one month, in group conditions consisting of maximum 12 beneficiaries. This assessment is conducted for high-risk children and youth who may have, but not necessarily, a history of criminal offences. The criteria for placing children and youth in an institution in order to assess the risk and needs relate to the following:
   - ✓ Children and youth, both male and female between 9 and 21 years of age
   - ✓ The young people whose behaviour directly and substantially jeopardizes themselves and others;
   - ✓ When a juvenile is at risk due to neglect or abuse occurring in his/her environment;
   - ✓ When the interventions conducted previously did not give the expected results;
   - ✓ When there is a probability to impose a highly structured and complex (mostly institutional) treatment/sanction.

A young person is separated from his/her primary environment, family, community and often from his/her domicile because there is no institution to conduct an assessment or because that is considered necessary for other reasons (e.g. the living conditions in the family put him/her at risk, negative peer pressure). The beneficiary stays 24 hours a day in an institution (except when in school, or goes home at weekends, for medical appointments etc.) and is constantly supervised by experts. This type of assessment requires a team of experts (social pedagogue, psychologist, social worker, psychiatrist for children and adolescents, neurologist, medical doctor, pedagogue, and others if necessary). In Croatia, such an assessment is conducted by special departments for the assessment of social welfare educational institutions (for children and youth with behavioral problems) / centres for providing services in a community and by some health care institutions (e.g. Psychiatric Hospital for Children and Youth in Zagreb, a Psychological Medicine Clinic) [36]. Advantages and disadvantages of this assessment type are listed in Table 5.

[36] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.

Table 5: Disadvantages and advantages of the all-day assessment of juveniles

Disadvantages	Advantages
○ A juvenile is separated form his/her primary natural environment (it is possible to encounter obstacles to a natural behavior, also emotional, psychosomatic and social problems, as well as resistance due to the separation, problems with the juvenile's adjustment); ○ Artificial conditions of life, a highly structured institutional environment; ○ The issue of the assessment objectivity (is the actual behavior being assessed or the behavior that was imposed or "intentionally" provoked by that situation?); ○ A beneficiary is stigmatized, labelled and marginalized for being separated from his/her family; ○ A financially expensive assessment;	○ Acknowledging the principles of assessment procedurality, dynamics and intensity; ○ Easy to verify different intervention approaches and types of treatment; ○ Simulation of everyday life with all corresponding requirements and contents for the specific age of beneficiary (school, interests, peers, conflict resolution, attitude towards authority…); ○ Duration and intensity enable the overcoming of the fear and initial problems of juvenile's adjustment; ○ Establishing trust and relations with peers in the group and with experts; ○ Interdisciplinary and transdisciplinary team approach;

Apart from the previously stated, there are also special types of assessment within the particular institutions for the youth in conflict with the law (e.g. Reformatory Turopolje) in order to conduct **specifically treatment-oriented assessment in the institution** (e.g. the group where a beneficiary needs to be placed, the education program and training for a beneficiary to follow, any specific treatment programs of free time activities, etc.). In some correctional institutions there are the so-called reception or discharge departments or groups with specific tasks to which the assessment procedure needs to provide answers in relation to a particular beneficiary, in very concrete conditions. That is an **integrated type of assessment** but there must have been some other type and level of assessment before in order to reach a decision on placing a juvenile in an institution.

Certain all-day and half-day assessment types in specialized institutions for children and youth are also conducted in the framework of some other systems, such as the justice system (detention) or health care system (psychiatric institutions) but those are exceptions because a detention is ordered for juveniles only in exceptional cases. Also, placement in a psychiatric institution for youth with behavioural problems is usually of short duration and/or closely related to an all-day assessment in a correctional institution.

2.2. Methods in assessment process (areas of assessment, juvenile assessment methods and techniques)

So far only the formal and organizational conditions for conducting a certain type and level of assessment have been described. However, the essence of that process is the issue of quality, subject and manner of assessment and also who will conduct the assessment. The described comprehensiveness of the assessment process has been summarized in a schematic overview in Figure 12 below.

SOURCES OF DATA	INFORMATION/DATA
• Juvenile • Parents • Other important persons/observations	• Facts • Assessments • Self-assessment and self-report
ASSESSMENT METHODS AND TECHNIQUES	**AREAS OF ASSESSMENT**
• Gathering relevant documentation • Observation method • Conversation method • Testing method • Assessment and self-assessment method • Complementary methods	• Previous and current criminal offences and sanctions • Family • Education • Peers • Addiction abuse • Personality/behaviour • Attitude/orientation

Figure 12: Elements of assessment comprehensiveness

The legal basis clearly defines the juvenile **assessment areas** as well as the experts who conduct assessments (primarily a social pedagogue, a social worker, a psychologist and if necessary, other professions), whereas the methods and techniques implemented in their work depend on each profession and diagnostic issue that is in focus. In relation to the **information sources**, it is important that they are numerous and diverse in order to ensure a comprehensive approach to the data on beneficiaries from different environments and relations. A young person is the key data source followed by parents/guardians, then teachers/educators as well as other experts who are in the possibility to establish a relation with the beneficiary for a particular time period. In that context, it is possible to observe also the **information types** that are gathered and interpreted, which are related to the sources and data types. Therefore, some data represents objective facts, some data represents assessments made by experts and other persons, whereas other data is gathered in a self-report and self-asessment of young persons, and it represents the perspective of beneficiaries and how they see the situation. All of this needs to be "run through" **various fields of assessment** and different environments and situations, i.e. numerous contents. The ways of reaching relevant information has been summarized in the assessment methods and techniques. With respect to the responsivity factors that are important in planning and implementing interventions, it is necessary also to examine a whole range of other areas that are closely related to the history and functioning of the child itself, of its parents, and also of the system itself.

The selection and application of **the methods and techniques of assessing** the youth in conflict with the law depends on numerous criteria and circumstances. A part of this complexity arises from the need to know, understand and interpret the complex occurrences that are assessed (assessment of beneficiary and his/her behavior in certain contexts and relations, identifying latent dimensions of personality and behavior, complexity of beneficiary's environment, etc.). The implementation of the assessment methods and techniques (also the instruments) depends on the purpose, objectives and levels of assessment, and on the juvenile's characteristics, but also on the expert, i.e. the profession that is involved in the assessment itself. The techniques are therefore more adjusted to some professions, i.e. assessment areas of particular experts in the team. The "obligatory"/key methods in the assessment process are: the method of observation, conversation, testing, assessment and self-assessment, as well as the method of gathering relevant documentation. It is not necessary but

preferable to apply the other methods and accompanying techniques, which is why they are called complementary methods and those are: creative and expressive techniques, interactive games, sociometry and others.

2.3. Trainings of professionals for conducting individual assessment

Obligatory training for the experts conducting assessment in the justice system (non-legal professionals in courts and state attorney's offices) has been legally proscribed and it is the institution of Judicial Academy that has the mandate to educate experts in that system. However, in practice, due to the lack of finances and due to changes in policies, the systematic trainings of experts are rarely organized. Nevertheless, several trainings have been organized gathering a larger number of experts.

The experts working in practice on assessments and treatments of juvenile offenders have been offered a one-day **training on the implementation of the "Youth Delinquent Behaviour Attribution Scale"**[37] . For a great number of participants from the justice system (state attorney's offices, courts, Juvenile Prison Požega and Reformatory Turopolje) and the social welfare system (social welfare centres, correctional institutions and family centres), the total of seven cycles of trainings were held. After the completed training, experts are able to apply the stated scale in their work with juvenile offenders, they can develop and interpret the attribution profile for each juvenile and apply the obtained results in the implementation of different interventions.

Apart from that, a training was also organized for experts in the social welfare system, i.e in social welfare centres and a manual "**Assessment, planning and reporting in conducting juvenile alternative sanctions**" [38] was published in the framework of the project that was in implementation between 2010 and 2012 within MATRA programme financed by the Dutch Ministry or Foreign Affairs. This programme in one part dealt with the RNR (*Risk-Needs-Responsivity*) model/approach for the assessment and education of experts to implement the Croatian version of the *Washington State Pre-Screen Assessment*[39] - so called IT-KRIM instrument. The training objective was to harmonize and standardize the work methods of social welfare center experts in the area of juvenile offender assessment, in the development of a program of procedures for alternative sanctions with an emphasis on the educational measure called Intensified Care and Supervision, and in the area of reporting on the course of sanction execution.

Another completed training is also the one entitled "**Gambling addiction – from theory to treatment (Modul I)**" intended for all experts who conduct interventions among persons who manifest various forms of risky behavior, with a particular emphasis on addiction, as well as criminal and delinquent behavior. Apart from the fact that participants obtained knowledge on gambling and games of chance, on the second day the participants were trained to apply the gambling risk-assessment instrument

[37] Ricijaš, N. (2009a). Attributions of Juveniles' Delinquent Behavior. Doctoral Thesis. Faculty of Law, University of Zagreb: Zagreb.
[38] Ricijaš, N. (2012). Assessment, Planning and Reporting for Juvenile Alternative Sanctions. Ministry of Social Policy and Youth: Zagreb.
[39] Washington State Juvenile Court Assessment Manual Version 2.1. (3/2004), Washington State Institute for Public Policy, www.wsipp.wa.gov

(CAGI, eng. *Canadian Adolescent Gambling Inventory*[40]), and to understand gambling-related cognitive distortions.

Furthermore, another more extensive/systematic training was organized on the topic of assessment in Croatia in cooperation with relevant ministries and the UNICEF Office in Croatia. It was a training for experts employed in departments for diagnostics/assessment of children and youth in seven correctional institutions in Croatia within the project called **"Improvement of Assessment Standards for Children and Youth with Behavioural Problem in the Republic of Croatia"** that was implemented between 2015 and 2017. One of the outcomes of this project, apart from educating experts in two models, was also the publishing of the manual dealing generally with the assessment of needs, risks and strengths of children and youth with behavioural problems, therefore indirectly with the assessment of youth in conflict with the law, as a part of this wider group. Specifically, the outcome of the project is a book called "Needs Assessment of Children and Youth with Behaviour Problems-Conceptual and Methodical Guidelines." [41]. Also, in cooperation with practitioners, the "Proposal of quality standards in the implementaiton of assessment process of children and youth with behavioural problems"[42] was developed dealing with the principles of professional work in four areas: 1) experts' competences standards, 2) ethical standards, 3) implementation standards and 4) assessment outcome standards (elements of quality opinion and expert's proposal, intervention implementation plan and assessment process evaluation).

Until 2018, non-legal professionals never participated in the trainings of Judicial Academy. Through the project and cooperation among UNICEF in Croatia, the State Attorney's Office of the Republic of Croatia, the Judicial Academy and the Faculty of Education and Rehabilitation Sciences of the University of Zagreb, a systematic training was organized for the first time for youth state attorneys and their deputies as well as the non-legal professionals employed in state attorney's offices in the framework of the the project **„Education/training for Youth State Attorneys and Non-Legal Professional in State Attorneys' Offices Working with Juvenile Offenders".** This is an extensive education program in implementation between 2018 and 2020. It involves all experts employed in all state attorney's offices in the Republic of Croatia (the total of 98 youth state attorneys and 20 non-legal professionals). The main objective of the training is to improve the competences of experts in processing juveniles and assessing juvenile offenders. To be more precise, the main aim of this Training Program is to ensure a comprehensive, knowledge and skill-oriented training of youth state attorneys and non-legal professionals at state attorney's offices, that is in line with relevant (inter)national legal documents and recommendations, with the aim to ensure developmentally and legally appropriate approach and interventions within the juvenile justice system in Croatia.
The training consists of 5 complementary modules, focusing on the most important areas of:

1. Adolescent development and youth behavioral problems (2 days),
2. Juvenile delinquency and juvenile justice system (3 days),
3. Assessment of juvenile offenders (1 day for youth state attorneys, 5 days for non-legal professionals at state attorney's offices),
4. Communication and treatment aspects of working with juvenile offenders (2 days),

[40] Tremblay, J., Stinchfield, R., Wiebe, J., Wynne, H. (2010). Canadian Adolescent Gambling Inventory (CAGI) Phase III Final Report. Submitted to the Canadian Centre on Substance Abuse and the Interprovincial Consortium on Gambling Research.
[41] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.
[42] Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017), op.cit., footnote 1.

5. Legal aspects of interventions towards juvenile offenders (2 days).

The total duration of training is 10 days for state attorneys and 14 days for non-legal professionals. It is furthermore positive that **a new curriculum of the Judicial Academy's education program is being developed**, following an encouragement of UNICEF in Croatia. This program should precisely include the non-legal professionals working in the justice system as the target group in their systematic training programs.

There are many specific, usually one day**, trainings for expert licensing in the implementation of certain intstruments or methods and techniques** (such as diagnostic interviews, motivation interviews, specific assessment instruments for psychologists) to perform assessment of specific features of children and youth with behavioural problems/offenders, or to assess a juvenile's personality structure. However, these are not the programs that are organized at the level of the system (e.g. competent ministry) for experts, so they will not be further elaborated or described here.

2.4. Relevant research in the area of assessing and harmonizing interventions with juveniles' risks/needs

As it has been shown in the previous chapter, even though the legal (but also the theoretical and scientific-professional) framework sends clear messages on the data that can be the basis for making relevant proposals and decisions, the implementation of legal solutions in Croatia does not always correspond with those criteria. According to some recent research, with respect to the children and youth with behavioural problems in general, and equally regarding the youth in conflict with the law, **the interventions are not adequately matched with the beneficiaries' needs and instead of the principle of individualization and the (best) interest of the child/juvenile,** it is the principle of procedurality that is respected regardless of the assessed level of risks and needs of the specific juvenile[43] and regardless of the fact that a great number of scientific papers on the assessment, approaches and models, types, levels, methods and techniques have been published in Croatia and that this topic has been relevant for many years now[44].

[43] Pencinger, I. (2010). Checking the Criterions for Differentiation of Correctional Measures Ordered by Court. Master Thesis. Faculty of Education and Rehabilitation Sciences, University of Zagreb: Zagreb.

Mirosavljević, A., Koller-Trbović, N. (2011). Checking if Institutional Programs are Matched with the Results of Risk and Needs Assessment in a Croatian Context. Emotional and Behavioural Difficulties, 16, 3, p. 263-275.

Žižak, A., Koller-Trbović, N. (eds.) (2013). Risks and Strenghts Assessment Aimed for Treatment Planning. Faculty of Education and Rehabilitation Sciences, University of Zagreb: Zagreb.

Radić, S., Majdak, M., Vejmelka, L. (2014). The Purpose of Correctional Measure from the Perspective of Young Perpetrators in Only Correctional Institution for Young Boys in Croatia. Global Conference on Psychology Research, 28-29 November 2014, Barcelona, Spain.

Ricijaš, N., Jeđud Borić, I., Lotar Rihtarić, M., Mirosavljević, A. (2014). Intensified Care and Supervision from the Perspectives of Youth and Measure Leaders. UNICEF Office for Croatia: Zagreb.

[44] Poldrugač, V. (1987). Manual for the Implementation of the Socio-Educational Diagnosis of Behavioral Disorders in Children and Adolescents with the UNDSP Questionnaire and Instructions for Use. Faculty for Defectology: Zagreb.

Koller-Trbović, N. (1996). Diagnosis as a Presumption of Treatment. Criminology & Social Integration, 4, 1, p. 61-72.

Bouillet, D. (1998). Manual for Differentiated Treatment of Juvenile Delinquents Based on the Conceptual Level with Instructions for the Use of Unfinished Sentences Test. Faculty of Education and Rehabilitation Sciences, University of Zagreb: Zagreb.

Križ, Đ. (1999). The Criteria for Selection of Youth Educational Measures in the Light of the Juvenile Courts Act. Croatian Annual of Criminal Law and Practice, 6, 2.

Žižak, A., Koller-Trbović, N. (1999). Intervention Measures for Juvenile Perpetrators of Crimes. Croatian Annual of Criminal Law and Practice, 6, 2, p. 767-789.

Koller-Trbović, N., Žižak, A. (eds.) (2005). Participation of a Child in the Process of Needs Assessment and Interventions Planning – Social-Pedagogical Approach. Faculty of Education and Rehabilitation Sciences, University of Zagreb: Zagreb.

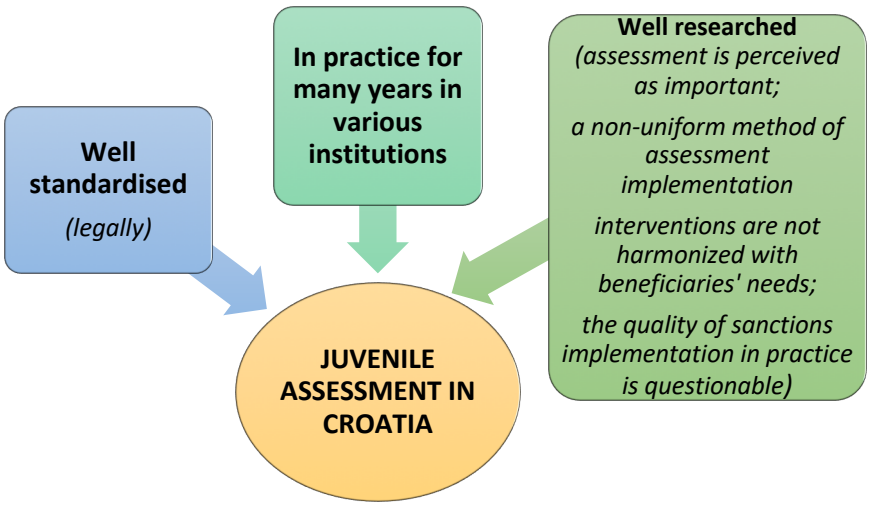


Figure 13: Graphic overview of the research conclusions in the area of assessing and matching interventions with juveniles' needs

Furthermore, the data analysis on the assessment that was conducted in social welfare educational institutions for children and youth with behavioral problems in the period between 2012 and 2014 has shown a **decrease in the number of children and youth that the social welfare centres referred to a team assessment in a social welfare educational institution for children and youth, and that there were practically no juveniles and/or younger adults who were referred to an all-day assessment for having committed a criminal offence,** i.e. in order to assess the need to order or impose adequate educational measures and sanctions for the youth in conflict with the law and/or referred directly by the court[45]. Such a trend was additionally confirmed throughout the regional consultations that were conducted with experts from social welfare centres, state attorney's offices and courts in April 2016[46]. This points towards a significant turn in the practice of social and judicial services while deciding and applying the most adequate intervention, in comparison to the previous practice. Such practice also points towards certain changes that have emerged in this field in the last few decades. Primarily, this refers to the influence of **deinstitutionalization process, to the strengthening of assessment teams in social welfare centres** (even though in this context, the experts from social wefare centres report on their own impossibility to conduct comprehensive assessments of juveniles due to insufficient compositions of teams and excessive number of cases that they generally process on daily basis) and **to the cooperation among experts conducting assessment from several systems, in order to make**

Ricijaš, N. (2006). Instruments of Assessment of Children and Adolescents – Possibilities of Application in Cases of Probation for Minors. Annual of Social Work, 13, 2, p. 271-295.

Ricijaš, N. (2009b). Delinquent Behavior Attributions of Low-Risk and High-Risk Juvenile Delinquents. Criminology & Social Integration, 17, 1, p. 13-26.

Koller-Trbović, N., Nikolić, B. i Ratkajec Gašević, G. (2010). Comparison of Risk/Need Assessment Instruments for Children and Youth. Criminology & Social Integration, 18, 2, p. 1-14.

Jeđud Borić, I. (2012). Gender Sensitivity in Risk and Needs Assessment and Intervention Programming for Girls with Behaviour Problems. Annual of Social Work, 19, 2, p. 241-274.

Žižak, A., Koller-Trbović, N. (eds.) (2013). Risks and Strengths Assessment Aimed for Treatment Planning. Faculty of Education and Rehabilitation Sciences, University of Zagreb: Zagreb.

Koller-Trbović, N., Mirosavljević, A., Jeđud Borić, I. (2017). Needs Assmesment of Children and Youth with Behaviour Disorders - Conceptual and Metodical Guidelines. UNICEF Office for Croatia: Zagreb.

[45] Koller-Trbović, N., Jeđud Borić, I., Mirosavljević, A. (2015). Assessment Process in Educational Institutions in Croatia – Current State Analysis. UNICEF Office for Croatia. Internal report.

[46] Koller-Trbović, N., Jeđud Borić, I., Mirosavljević, A. (2016). The Internal Report on the Joint Meeting with the Participants of the Project and Four Regional Consultations.

the assessment more acceptable to beneficiaries (without performing separations) and also faster and cheaper, but under the precondition that the quality is the same. The research has also shown that there are many problems at the level of social welfare centres, youth state attorney's offices and courts because they have **unrealistic deadlines proscribed for procedures** and they are often guided in their work, as has already been mentioned, exclusively by the principle of procedurality (so the question is what is the point of the assessment if it is a purpose in itself) which is professionally unjustified and in collision with the principle of individualization and best interest of a child. Due to the time pressure, the assessment of juvenile's needs at the level of social welfare centres, state attorney's offices and courts is often conducted urgently and not professionally enough, therefore the results of such assessment are questionable. Equally, the participants (those who ordered and who conducted assessments) also reported about the **problems with juveniles' defence attorneys** who seem uneducated and oriented to material benefit and not to the interest of the child, therefore it was concluded that the effects of that work are against the interest of the child because the focus is more on proving the guilt and not on all of the principles and guidelines stipulated by the Youth Courts Act. This additionally extends the already well-known problem of **slow courts and significant time span between the assessment, decision-making and decision implementation**[47].

Regarding the previously described all-day or institutional assessment of juvenile, a **qualitative participatory research was conducted in 2015 and 2016** involving about **40 principals and experts engaged to work on the team assessment of all seven social welfare educational institutions (for children and youth with behavioral problems) in the Republic of Croatia.** Also, **35 young persons** were involved in the assessment process in one of the correctional institutions. Furthermore, the documentation and web sites of those correctional institutions/Assessment Departments, as well as the findings and opinions were analysed. Interviews were then completed with **84 employees of the social welfare centres, state attorney's offices and youth courts from different parts of Croatia** and also the questionnaires (of social welfare centres, state attorney's offices, courts and correctional institutions) [48] were analysed. It was concluded that precisely the **institutional assessment in some social welfare educational institutions/centres for providing services in the community** (e.g. Rijeka and Zagreb) is an **example of good practice.**

The analysis of **experts' perspective** has pointed to the **key advantages of the assessment conducted in social welfare educational institutions in relation to other types or levels of assessment**, and those are:

- a multidisciplinary team dealing exclusively with assessment tasks;
- a quality implementation of assessment as a result of the constant work of the Assessment Department and a large number of conducted assessments;
- good relations established between the expert and children/youth; the beneficiaries are satisfied;
- good quality and informative proposals and opinions of the assessment team which are useful for the intervention/treatment planning; treatment-oriented assessment;
- institutions are located in city centres and well connected with local community;

[47] Koller Trbović, N., Mirosavljević, A, Jeđud Borić, I. (2016). Summary of Regional Consultations Carried Out in Zagreb, Osijek, Rijeka and Split with Professionals Employed in Centers for Social Welfare, State Attorney's Offices and Youth Courts on the Subject of the Assessment of Children and Youth. Internal Report. UNICEF Office for Croatia.

[48] Koller-Trbović, N., Jeđud Borić, I., Mirosavljević, A. (2015), op.cit. in footnote 21.
Koller-Trbović, N., Jeđud Borić, I., Mirosavljević, A. (2016), op.cit. in footnote 22.

- an informative web site or a Facebook profile of the institution in order to reach out to beneficiaries as much as possible
- the core team is well connected, engaged and dedicated to the work, children and youth, but a certain level of dissatisfaction exists in relation to the implementation of interventions in practice
- the state attorney's office and court rarely send juveniles directly into this type of assessment because it is expensive despite its good quality and usefulness
- the state attorney's office and court as a rule "trust" the findings and opinions of the correctional institutions more than the opinion of social welfare centres or their own assessment.

The main messages of children and youth who underwent the assessment process:

- young people more or less agree on what the assessment purpose is: observation of their behaviour and decision-making on what happens to them afterwards;
- their impression of the assessment is mostly positive (change, help, benefits), but they also see it as punishment, deprivation of freedom and boredom;
- it is important for them to participate in the assessment process, i.e. that they are involved in the process of making proposals and decisions on further interventions;
- they often emphasize good relations with professionals during the assessment, therefore the majority of the proposals to improve this process primarily relates to the relation with professionals, whereby the children and youth want from their professionals to take their opinion into account and that they have a friendy relationship;
- one part of participants considers that the long periods of time of "waiting" between the assessment and intervention is problematic and they believe that the intervention should follow immediately after the assessment.

Briefly, the Croatian **system of implementing the assessment** of youth in conflict with the law and making decisions on interventions towards juveniles **is insufficiently matched. The quality of implementation of measures and sanctions in practice is equally questionable.**

Some of the instruments intended specifically for the assessment of youth in conflict with the law such as YLS/CMI[49], the Youth Delinquent Behaviour Attribution Scale[50], even though **they have been present for a long time and even standardised several times and adjusted to the Croatian cultural context**, they are mostly either **not implemented in practice** or **the competent ministries and institutions lack political will** for their complete implementation in practice.

2.5. Reports or recommendations from relevant monitoring bodies with the authority to monitor juvenile justice system

In line with the stated difficulties in practice, the **Ombudsman for children** reports on the youth in conflict with the law and the justice system. Therefore, in the report for 2018 she states that in that year almost the same difficulties were observed in relation to the protection of rights and interests of the children in conflict with the law as in the previous years[51]. **The difficulties** and recommendations are shown in Table 6.

[49] Hoge, R.D., Andrews, D.A., Leschield, A.W. (2002). Youth Level of Service / Case Management Inventory. MHS. Toronto.
[50] Ricijaš, N. (2009a). Attributions of Juveniles' Delinquent Behavior. Doctoral Thesis. Faculty of Law, University of Zagreb: Zagreb.
[51] Ombudsman for Children (2019). Report on the Work of the Ombudsman for Children: 2018. Ombudsman for Children: Republic of Croatia.

Table 6: Difficulties in proceedings towards juvenile offenders and recommendations of the Ombudsman for children

Difficulties	Recommendations
• Inadequate treatment of juveniles by police officers • Inadequate conditions for the execution of detention • Long court proceedings • Defence attorneys are not educated sufficiently for juvenile court proceedings (they use the allowed process activities and thus slow down the procedures without recognizing the juvenile's interest) • No specialization for youth judges • The trainings for justice system employees are not an obligatory standard for the work with children and youth • The criteria for the selection of measures and sanctions are not uniform • The measures and sanctions are not harmonised with the level of risk and juveniles' needs; the interventions are belated considering the juvenile's degree of risk • Treatments in the juvenile institutions are of poor quality and inefficient	✓ To implement the measure of temporary accomodation of juvenile in a correctional institution during the court proceedings as a replacement for detention ✓ To change procedural provisions in order to accelerate court proceedings ✓ To introduce obligatory trainings for defence attorneys, state attorneys and youth judges working with juveniles ✓ To ensure that the state attorneys and youth judges work exclusively on cases in the competence of the Youth Courts Act (specialisation) ✓ To raise the level of participatory rights of juveniles in all phases of proceedings and throughout the execution of measures and sanctions

2.6. Examples of good practice of individual assessement

As **the examples of good practice** in Croatia (Table 7), apart from those already mentioned in the text, it is important to state that **the several systems that a juvenile goes through in the procedure are well connected** (from the state attorney's office, through social welfare centres and courts) which raises the quality of proceedings towards the young person[52]. Also, **the state attorney's offices and courts throughout Croatia have employed non-legal professionals (social pedagogues and social workers) who have an important role, who collect data and provide expert opinions necessary to pass decisions in the competence of a state attorney or court.**

Table 7: Examples of good practice regarding the juveniles' assessment in Croatia

Long-term presence of juveniles' assessment in legislation
Long-term experience of experts in the work on juveniles' assessment
Awareness among the scientific and professional public on the importance and necessity of juveniles' assessment
A quality implementation of all-day assessment of juveniles' needs to the mutual satisfaction of experts and beneficiaries

[52] Mandić, S., Dodig Hundrić, D., Ricijaš, N., Kuharić, M. (2018). The View of Experts on the Effectiveness of the Juvenile Justice System. Collected Papers of the Law Faculty of the University of Rijeka, 39, 3, p. 1259-1283.

Numerous projects were implemented and researches conducted on the topic of needs assessment of children and youth with behavioural problems/juvenile offenders
Systematic trainings held on the topic of juveniles' assessment
The systems that a juvenile has to run through during proceedings are inter-connected

Therefore, a conclusion can be drawn that **there are good bases for quality proceedings** in Croatia, but there is also a need to invest further efforts in achieving uniform criteria in procedures towards the youth in conflict with the law at the national level.

3. RESULTS OF RESEARCH INTERVIEWS WITH RELEVANT STAKEHOLDERS

3.1. Research implementation and description of participants

In the framework of the project and with the objective of gaining insight into the perspective of experts conducting and using the assessment of juvenile offenders in the Republic of Croatia on the status of individual assessment and the implementation of the Directive 800/2016, three focus groups were conducted – one in Zagreb, one in Osijek and one in Rijeka.

The focus groups were run in compliance with the interview/focus groups guidelines that were agreed on the project. In particular, the focus groups were moderated according to the previously prepared guide, as created by the project team members and oriented towards key topics that are relevant to achieve the project objectives. The focus groups were run by the project team members whereby each focus group was headed by two researchers – co-moderators. The average duration of each focus group was two hours. All of the participants gave their oral informed consent to participate in the focus group, to have it recorded and to have their names stated in the national report (list of focus group participants). This was required to comply with guidelines of codes and laws related to ethical aspects of researches conducted in Croatia.

Each focus group consisted of (1) experts doing the assessment of juveniles who are suspects or accused of perpetrating criminal offences, and (2) those using this assessment. Overall, 29 experts participated – 10 in Zagreb, 9 in Rijeka and 10 in Osijek (Table 8). In order to present more clearly and systematically the data obtained through the deductive and descriptive topic analysis of focus groups, it will be presented separately for (1) experts doing the assessment and (2) experts using the assessment.

Table 8: List of focus group participants

First and last name	Institution	First and last name	Institution	First and last name	Institution
ZAGREB		**RIJEKA**		**OSIJEK**	
DOING IA					
Tamara Hećimović	Social Welfare Centre	**Ana Karakaš**	Municipal Court in Rijeka	**Ružica Korov**	Social Welfare Centre
Gordana Babić	Centre for providing services in the community Zagreb – Dugave	**Tonka Milanović Juretić**	Municipal State Attorney's Office in Rijeka	**Kristina Barić Mak**	Social Welfare Centre
Marina Kuzmanić	Centre for providing services in the community Zagreb – Dugave	**Melita Purić Kranjčević**	Social welfare educational institution (for children and youth with behavioral problems) in Rijeka	**Vanja Marić**	Social welfare educational institution (for children and youth with behavioral problems) in Osijek
Lidija Schauperl	Municipal State Attorney's Office in Zagreb	**Tijana Krnjajić**	Social welfare educational institution (for children and youth with behavioral problems) in Rijeka	**Iva Bistrović**	Social welfare educational institution (for children and youth with behavioral problems) in Osijek
Saša Lechner	Municipal Criminal Court in Zagreb, Department for youth	**Miljenka Mikulec**	Social Welfare Centre	**Mila Čališ**	Municipal State Attorney's Office in Osijek
		Ivana Tončinić Biondić	Social Welfare Centre	**Ivana Azapović**	Municipal Court in Slavonski Brod
USING IA					
Lana Peto Kujundžić	County Court in Zagreb, Department for youth	**Tatjana Čargonja**	Municipal Court in Rijeka	**Mirjana Lalić**	Municipal State Attorney's Office in Osijek
Natalija Slavica	County State Attorney's Office in Zagreb	**Tea Radovani**	County State Attorney's Office in Rijeka	**Iva Šarić Balog**	Municipal State Attorney's Office in Osijek
Erika Korade	Municipal State Attorney's Office in Zagreb	**Sandra Čulinović Pintar**	Municipal State Attorney's Office in Rijeka	**Jasmina Bošnjak**	County State Attorney's Office in Osijek
Lidija Ogrinc Grgić	Municipal State Attorney's Office in Zagreb			**Mirna Grgić**	Municipal Court in Osijek, Criminal Department
Sonja Vrandečić	Municipal Criminal Court in Zagreb, Department for youth				

I. EXPERTS DOING THE ASSESSEMENT OF CHILDREN WHO ARE SUSPECTS OR ACCUSED PERSONS IN CRIMINAL PROCEEDINGS (DOING IA)

The total of **17 experts** who conduct the assessment of juvenile offenders in their daily work participated in the focus groups. Considering the particular professions, the participants included 12 social pedagogues, 3 psychologists and 2 social workers who are employed in state attorney's offices, courts, social welfare educational institutions and social welfare centres. The analysis of their replies is shown below, according to key areas/topics.

a) Education provided so far on the specific issues of juvenile justice, juvenile offenders and individual assessment of juveniles

Regarding the formal education programs provided so far, there are **differences according to each particular profession**. Therefore, **social pedagogues** already during their studies had a range of **criminal justice courses** in the faculty syllabus**, as well as courses dealing with bio-psycho-social aspects of juvenile delinquency** (etiology, phenomenology, interventions, etc.). In that sense they mention **theoretical and methodical courses** focusing precisely on the juvenile justice, criminology of juvenile delinquency and the juvenile assessment (e.g. diagnosing in defectology; socially pedagogical assessment; preparation of opinions and proposals, learning by example etc.) and also the fact that throughout their studies they had obligatory practical work that they assess as highly important.

On the other hand, the **psychologists** noted that their **study program was very broad with a few** (or none at all) **topics from the field of penological and forensic psychology,** so in relation to that, after they were employed **they educated themselves and learned from practical experience** and through their direct work with beneficiaries. Throughout their studies, the problems in the behaviour of children and youth appeared as individual topics and sporadically (e.g. personality characteristics of offenders). However, the syllabus included courses related to the assessment of personality and emotions which is useful in their daily professional work in this area.

The social workers during their studies dealt with the topics related to juveniles **in the framework of only one course** (Social Pathology). What they consider important is **their individual education through professional literature, experience during their internship and knowledge obtained from their mentors and senior colleagues – experts** with significant practical experience.

In the context of **additional trainings that they attended so far,** they mention a relatively small number of trainings on this topic, namely the concrete examples such as: "*Assessment, planning and reporting in conducting juvenile alternative sanctions"* (Ricijaš N.), then the education program for the implementation of assessment instruments within the project "*Matching interventions with the needs of children and youth at risk: creating a model"* (Žižak A.), *"Improvement of Assessment Standards for Children and Youth with Behavioural Problem in the Republic of Croatia"* (Koller-Trbović N., Mirosavljević A., Jeđud Borić I.), and a systematic *education for state attorneys and non-legal professionals employed in the Municipal State Attorney's Offices* with the purpose of empowering competences of professionals in the area of juvenile delinquency criminology and conducting the ongoing assessment of youth in conflict with the law (Ricijaš N., Dodig Hundrić D., Mirosavljević A.).

Psychologists regularly attend numerous trainings on personality assessment but those are rarely oriented exclusively towards juvenile offenders. Particularly valuable for the respondents were **the joint interdisciplinary trainings involving all stakeholders dealing with youth in conflict with the law, but working in different systems** (e.g. the topic of the status of juveniles in conflict with the law at school), however, the problem is that such trainings are no longer held and also they were rather one-day seminars than proper trainings.

b) The need for trainings on specific features of juvenile justice and juvenile offenders

The participants propose **trainings for defence attorneys** whose actions are often not in the best interest of juveniles and who are not familiar with juvenile justice, its principles or the Youth Courts Act which all makes the work of participants in the focus group more difficult.

They consider **several-day trainings** useful, **which would involve experts from various professions and various sectors dealing with the problematics of youth in conflict with the law.** Such trainings would involve case studies, exchange of experiences, dilemmas, difficulties and challenges encountered in their work, together with examples of good practice. In this way, they would equally improve their mutual cooperation as well as education programs and professional conferences for various stakeholders included in the pre-trial procedure/criminal procedure. In this context, they state that one-day trainings should be avoided because specific topics can only be superficially covered there.

They particularly emphasize the need to have trainings with the purpose of **standardizing the entire procedure regarding juveniles**, i.e. all of the elements of the procedure with all of the participants involved in the procedure and relevant institutions. The reason why such a training is necessary is due to the fact various institutions have different practices ("...*nobody knows now what they are supposed to be doing, there is a lot of disagreement among professionals. That is why the practice needs to be harmonized and uniform*"). The objective of such a training should be to make the work method of various institutions uniform (uniform criteria, uniform results, opinions and proposals, development of work protocol etc.).

One part of the participants also suggests **trainings on the topic of implementation and execution of court sanctions, the legal regulations** related to juveniles and the interpretations of legal provisions. The suggestions further include conferences, **consultations and supervisions of experts** who implement measures and sanctions, then the exchange of experiences and examples of good practice in the area of execution of measures and sanctions for juveniles.

Apart from the stated proposals, the experts that do the assessments express the need to have trainings on **the implementation of new standardised tests and instruments** that would carry particular weight in court and would represent a firm confirmation of a conclusion that was made. Apart from that, they state that the same set of instruments is currently used for all groups of children and youth (a suspected or accused child or a child with behavioural problems) which leads to report of poorer quality. That is why they propose trainings for experts on the topic of implementation of instruments used to assess specific problems in the behaviour of juveniles.

They specifically emphasize the **lack of training in the area of family relations and family dynamics**, stating that trainings on this topic would be particularly important in order to provide assessments of better quality.

c) Individual assessment of juvenile suspects or accused juveniles in the justice system in Croatia

All of the participants, namely the experts doing the individual assessment, agree that the **individual assessment,** i.e. the assessment of risk, needs and strengths of a juvenile and his/her environment in Croatia is not something new, but **has for many years been implemented (long before the Directive was passed) in the laws that present foundations of juvenile justice system (in particular in the Youth Courts Act) and is applied** at different levels, in all phases of proceedings and for different purposes, such as, for example, proposing measures/sanctions at the level of state attorney's office or court, passing decisions on further proceedings, passing decisions with respect to younger adults regarding the application of the Youth Courts Act, the assessment of needs for some other interventions outside the justice system, the intervention evaluation, juvenile's assessment done by court expert witnesses, etc. and they jointly state that "...*no child can undergo a criminal procedure without a previously conducted assessment".* However, what they emphasize as a difficulty is the "inertia" of the system in the sense of excessive length of procedure in some cases. All of the participants agree that **the assessment is highly important and that the quality of the decision made with respect to the juvenile** (either by the state attorney's office or the court) **depends on the quality of the assessment process implementation.**

The participants doing the individual assessment state that the key institution, regarding juvenile offenders and assessments, is **the Social Welfare Centre** which, upon the request from the court or state attorney's office conducts the assessment of the juvenile and submits to them a report on the personal and family circumstances related to the juvenile, together with a proposal on further procedures, i.e. the proposal of a sanction or measure (and also in some cases and when that is estimated as necessary, the information on implementing a measure within their competency). This is **a non-institutional, occasional or discontinued assessment of a juvenile**. Therefore, the **largest number of juvenile assessments** is conducted at the level of the Centre (**the comprehensive assessments of juveniles** and their environment, involving an entire team – **a social worker, a social pedagogue and a psychologist).** The assessment done at the level of the Centre is crucial as well as the cooperation of all institutions (state attorney's office, court and other) with the Centre. The Social Welfare Centre's team, apart from the already mentioned levels of assessment, conducts **the assessment also in the pre-trial detention.** Considering the fact that the pre-trial detention is particularly rarely imposed on juveniles (due to inadequate conditions for its execution), such type of assessment is rarely conducted. It is important to note that **the concluding opinion and proposal made by the expert team of the Social Welfare Centre always contains a proposal for further procedure/sanction.** However, since this is **not obligatory,** the suggestion is to make this uniform at the level of Croatia and that providing a proposal becomes obligatory, i.e. an integral part of the opinion and proposal made by the assessment team. The assessment at the Social Welfare Centre is conducted, as previously stated, by **the social worker, psychologist and social pedagogue, therefore the development of an opinion and proposal is done jointly as a team work, as well as the**

development of a sanction proposal upon the request from the state attorney's office or usually the court, since the assessment **with respect to the application of the principle of opportunity/diversion at the level of Municipal state attorney's office is usually conducted by non-legal professionals** employed at municipal state attorney's offices.

The Municipal State Attorney's Office, i.e. the non-legal professionals independently conduct the assessment **for around 95% of juveniles to whom it is possible to apply the principle of appropriateness/opportunity in which process they certainly cooperate with the social welfare centre, school** and other institutions in order to collect as much information as possible on the juvenile and his/her environment. In cases when a juvenile and/or parents ignore the invitations to the state attorney's office or when the cases involve complex personal and family circumstances, risky juveniles and their families that require a comprehensive assessment, then the social welfare centre team is requested to conduct the assessment.

The role of non-legal professionals in **courts** is to **propose sanctions and supervise implementation of imposed measures.** They closely **cooperate with social welfare centres** on whose expert team they mostly rely with respect to the assessment (i.e. **upon their request the Centre conducts assessment)**, but also they cooperate with the institutions where sanctions are executed.

The whole-day or institutional assessment is conducted in a special **department of social welfare educational institutions where the core team mostly consists of social pedagogues, psychologists and social workers (but also a school doctor, neurologist and psychiatrist).** In cases involving the youth with specific features (mental health problems, physical disability, lower intellectual capabilities) the participants state that such persons are referred to the "specialized" institutions that can conduct a better quality assessment, such as, as they stated, psychiatric institutions/departments for children and adolescents, institutions for children with disabilities etc.

The participants state that **the number of experts among helping professions in the justice system is inadequate** so the non-legal professionals from the municipal level also work at the county level due to the fact that the courts/state attorney's offices lack adequate staff. Apart from that, one part of participants state also that the number of social pedagogues, and also social workers and psychologists in social welfare centres (for example in Zagreb) is insufficient so it happens often that a juvenile assessment is done by only one professional, instead of a whole team as is the case in some other cities (for example Rijeka).

Considering the **area of assessment,** the following is mostly assessed: previous and current criminal offences and the interventions conducted so far towards a juvenile and/or family, the attitude towards the committed criminal offence, family circumstances, the juvenile's personality/behaviour, emotional maturity, intellectual functioning, school, free time, substance abuse, interests, values and attitudes, as well as other relevant information (if necessary). In that work, **numerous methods and techniques** are used (interviews with the juvenile and family, observations, tests etc.) depending on the profession involved in the assessment (with respect to the assessment conducted for the purposes of the court, it is almost always that the assessment is conducted by a team consisting of a social worker, psychologist and social pedagogue, however that depends on the staff structure of each social welfare centre. The participants state that the assessment instruments can definitely help, however the method of conversation and the observations (**the clinical approach)** are crucial and should be

combined with the **actuarial approach.** Social pedagogues, more than psychologists, are oriented towards the clinical approach rather than the actuarial approach even though it is important, as the participants state, to combine both approaches and achieve an interdisciplinary cooperation. The social workers develop a social case history.

Generally speaking, **the assessment process takes one month** even though it is not stipulated by the law (except in cases of an institutional all-day assessment whose proscribed duration is on average 30 days).

A very **small number of accused or suspected juveniles is referred by the court or state attorney's office to an institutional or all-day assessment at social welfare educational institutions.** The problem is usually in finances and in the question who is to finance such a level of assessment which is expensive even though, according to our respondents, its quality is incomparably higher than the quality of the discontinued assessment or non-institutional assessment and the half-day assessment. However, the institutional assessment is not adequate for all offenders, but only for one part of them, the highly risky ones with intense behavioural problems and for those that are likely to be imposed with an institutional sanction or as a "shock" therapy for some.

In Croatia, **individual assessment is not conducted with the purpose of determining criminal responsibility** since it is in fact defined by the law. The participants state that the currently defined age of criminal responsibility is entirely adequate. However they agree that they **would, in some cases, benefit from a possibility to determine criminal responsibility more flexibly** if there were a possibility to conduct an assessment on the basis of criminal offence features, responsiveness to treatment etc. for the particularly risky offenders who are still not criminally responsible. But, they all point out and agree that the age of criminal responsibility (14) is adequate and should stay legally defined.

With respect to the structure itself and the quality of the report developed on the basis of conducted assessment, one part of our participants states **that the quality of the opinion and proposal they obtain from particular institutions is questionable** (e.g. too much irrelevant information on the beneficiary, reports that are too long, results focusing on negative aspects of juveniles and environment with no attention to any strengths as the basis for treatment work). Other participants, however, state that precisely **the focus on positive sides and strengths of beneficiary and environment** is what was important for them in the assessment and they emphasize that in their reports.

In relation to the confidentiality of information contained in the assessment report, all participants agree that the fact that **all parties involved in the procedure have the right to access the reports** creates significant problems for experts who are frequently attacked by parents and defense attorneys and who often find themselves in criminal complaints filed against them. As examples of violations of confidentiality of data they mention the criminal offences committed in complicity whereby all parties are given access to the case history information of all offenders, then also the medical confidentiality whereby doctors refuse to submit the necessary information invoking the rights of patients etc. This fact precisely, according to our participants, **affects the quality** (there is less information on the personality and the opinion following the observation, and more information on irrelevant facts) **and the manner in which reports are developed.**

d) Key difficulties and challenges of adequate implementation of individual assessment

Our participants report about **inadequate finances** at the level of social welfare and justice system in the area of youth with behavioural problems/in conflict with the law which affects those systems and their work overall (e.g. restructuring of social welfare centres where there are no longer departments working exclusively with juveniles etc.).

The basic message of our participants is **that the problem is not the assessment but the treatment of youth in conflict with the law** (practical implementation of sanctions stipulated by the law) and late interventions (the impossibility of the justice system to resolve problems that began long time ago, primarily in the families of juveniles, but the interventions were not on time). Our participants emphasize the **importance of prevention and timely interventions.** For example, the quality of institutional treatment is not satisfactory and in addition to that, many programs and offers are missing in the community, in particular the interventions related to risky families. There are equally **no family related systematic interventions** (the focus is too much on the exclusive work with juveniles without any changes made to the family circumstances and factors). What exists in the law, does not function well in practice, i.e. the interventions are not harmonized with the level of risks/needs.

As one of the challenges, they state the fact that, even though it is stipulated in the law, **a pre-trial detention for juveniles does not exist. The maximum duration of pre-trial detention for juveniles is also a problem,** because the procedure cannot be completed in such a short period of time (in addition, the pre-trial detention is imposed in rare and extreme cases for the riskiest juveniles who present a danger for themselves and for others with their criminal offences). Our participants report on the lack of harmonization between the law and practice, in that respect as well.

Furthermore, **the focus is too much on the procedural rights of juveniles** during the court proceedings which is why the best interest of the child remains outside the focus. Respecting and insisting on all procedural rights of juveniles significantly slows down the court procedure itself (which is additionally worsened by the uneducated defence attorneys who are primarily oriented to material benefits) which becomes **endlessly long so the expected effect of the proceedings and sanction gets left out.**

Uneducated defence attorneys who do not understand or do not wish to understand the purpose of procedure involving juveniles are also a problem, because their actions are not guided by the best interests of the child. Some participants believe that the effects of such actions are actually contrary to the child's interests since they are more oriented towards proving the guilt and respecting procedural rights. That additionally worsens the otherwise well-known issue of slowness of courts and the significant time span between the assessment, rendering of the decision and its implementation. Sometimes, however, **the problem is also in the parents who refuse to accept the problem** and who force the defence attorneys to stall the procedure.

Equally, **the fact that there is no specialization for youth judges and youth state attorneys** and their deputies is another difficulty in the overall work. On that topic, our participants also mention **the lack of interdisciplinary trainings for all professionals employed in the justice system** in the field of juveniles in conflict with the law.

Furthermore, another difficulty according to our participants **is the lack of harmonization in the work of youth judges and the lack of uniformity of case law at the state level.**

The participants also mention **the insufficient number of experts of the helping professions in the juvenile justice system in general,** as well as the fact **there is no adequate treatment nor institution for the highly risky juveniles with comorbidity** with serious mental difficulties and behavioural problems, who are at the same time perpetrators of criminal offences. In relation to that, the problem that is mentioned is the **lack of a social and health institution** for such specific groups of juveniles.

There is no acknowledgement of the **conclusions and recommendations made in reports on the intervention implementation involving a juvenile** conducted by experts nor the acknowledgement of assessment conclusions for the purpose of sanction evaluation (e.g. the educational measure of intensified care and supervision is implemented until it expires by operation of law regardless of the suggestions to terminate or replace the sanction…).

Our participants also point out that **there is not enough focus on the positive.** The principle of focusing on the positive in relation to juveniles and their environment during assessment process is not respected enough (in some institutions/departments and by some professionals).

The problem is also **the lack of monitoring and evaluating the assessment work**, and evaluating the rate of success of the interventions imposed on juveniles.

Considering that **it is not obligatory** that the concluding opinion and proposal of the social welfare centre team of experts should always contain a proposal for further actions/sanctions, the suggestion is to make this uniform at the level of Croatia and that **providing a proposal becomes mandatory, i.e. an integral part of the opinion and proposal of the assessment team, which is in compliance with the assessment principles because precisely the proposing of further actions or sanctions is the basic purpose of the assessment, i.e. the opinion and proposal.**

e) Key advantages and examples of good practice

As the key advantages of the juvenile justice system in the Republic of Croatia, our participants emphasize, above all, the fact that we have a **good legislative framework and** the fact that **individual assessment is done for all juveniles who are either suspects or are accused of having committed criminal offences.**

Then they state the fact that there are **non-legal in courts and state attorney's offices with whom they cooperate** in order to complete the assessment and render a decision on further procedure.

Furthermore, they point out that the assessment team at the social welfare centre and the social welfare educational institution for children and youth **is well staffed and that the opinion and proposal/report** on the juvenile assessment **is of high quality.**

They also emphasize **their good cooperation with other sectors** and that they personally know the experts from various departments.

The participants from Rijeka state that the social welfare centre's team of experts working with juveniles in Rijeka **is well staffed** (consisting of two psychologists, three social pedagogues and two social workers).

II. EXPERTS USING THE ASSESSMENT OF CHILDREN WHO ARE SUSPECTS OR ACCUSED PERSONS IN CRIMINAL PROCEEDINGS (USING IA)

The total of **12 experts** who **use** the assessment of juvenile offenders in their daily work, participated in focus groups. All of the participants are **legal professionals** working at the Municipal and County **State Attorney's Offices** as deputies of the Municipal and County State Attorneys (8 participants), and at the Municipal and County **Courts** as judges (4 participants). The same as in relation to the previous group of experts, the analysis of replies given by the experts who use the assessment is shown below and is, regarding the contents, divided according to key areas or topics.

a) The education provided so far on specific features of juvenile justice, juvenile offenders and the use of individual assessment

All of our participants completed their **legal studies** but throughout the studies they **were not taught** about the specific features of juvenile justice, juvenile offenders nor about the use of individual assessment in the framework of compulsory subjects at university. One part of participants was able to find out more about this topic in the course of **only one elective subject** oriented towards juvenile justice or in the course of subjects covering substantive criminal law and the Criminal Procedure Act but only as a **marginal topic** if someone among the students was interested (whereby they state that in the framework of that subject, the topics were covered superficially and briefly). For the majority of cases, the participants agree that with respect to this topic, the situation is still the same at all Faculties of Law in the Republic of Croatia.

They began gaining more knowledge when they started working at the youth departments (whether at the state attorney's offices or in courts), mostly **by educating themselves and consulting with senior colleagues who had more practical experience, or during their internship** and work with mentors. As one more example of good practice they emphasize the **obligation for all judges and state attorneys to regularly visit the institutions for juvenile offenders** (social welfare educational institutions for children and youth with behavioural problems, correctional institution, social welfare centre etc.) and learn from the experts doing the assessment.

In the context of the trainings attended so far, they mention only a **few rarely organised programs** on this topic throughout their entire work experience. As one example they mention ***the systematic educational program for the state attorneys and non-legal professionals employed in the Municipal and County State Attorney's Offices*** with the purpose of empowering the experts' competences in the field of criminology of juvenile delinquency and the ongoing assessment of youth in conflict with the law (the training implemented by Ricijaš N., Dodig Hundrić D., Mirosavljević A.). Another example that they mention are the organised **multidisciplinary and multisectoral trainings in the duration of several days on the topic of juvenile delinquency and procedures involving juveniles,** which have been conducted in the last 15 years.

Generally, they consider that the knowledge on juvenile assessment is not as important as the general knowledge on the juvenile delinquency and juvenile justice. This attitude is supported by the fact it is important for them to know what an assessment needs to contain and who can conduct it, whereas in the direct work **they entirely trust and rely on the assessments done by the non-legal professionals**

employed in their institutions, as well as the assessments done by team of experts at social welfare centres or social welfare educational institutions.

b) The need for trainings on specific features of juvenile justice and juvenile offenders

Just like the previous group of participants, these participants who use the assessment consider that it is important to introduce **trainings for defence attorneys** who hinder significantly their practical work in the best interest of juveniles. They also believe that only a few defence attorneys act for the benefit of juveniles, are familiar with the juvenile justice and its principles, with the purpose of juvenile measures and sanctions, and generally the Youth Courts Act.

Furthermore, similar to the perspective of the experts doing the assessment, this group too believes that it is necessary to introduce **several-day trainings that would be attended by experts from different professions across various sectors working on the problematics of youth in conflict with the law**, where they would work on case studies, exchange their experiences, dilemmas, difficulties and challenges in their work, but also examples of good practice and they would improve their mutual cooperation. They particularly emphasize that such trainings would need to be attended also by the state attorneys and judges together with the non-legal professionals.

Regarding the trainings specifically intended for legal professionals working within the juvenile justice system, the **specialization of youth judges and state attorneys** seems to be important as the need based on their experience. Therefore, in that context, the trainings for judges and state attorneys would be necessary on the topic of juvenile justice, criminology of youth delinquency and other topics, through interdisciplinary fields (psychology, sociology, criminology) since the issue of youth in conflict with the law is an multidisciplinary area.

One part of participants suggests also **the trainings with the objective to harmonize procedures and practice of youth judges** because at the state level they encounter different applications of certain institutes done by different youth judges.

c) Individual assessment of juvenile suspects or accused juveniles in the justice system in Croatia

Just like the previous sub-sample, the participants who use the assessement agree that the **individual assessment,** i.e. the assessment of risks, needs and strengths of a juvenile and his/her environment is not a novelty in Croatia. **For many years (even before the Directive was passed), the assessment was introduced in the laws which are the basis of juvenile justice (in particular in the Youth Courts Act) and is implemented** at various levels, during all phases of procedure and for various purposes. However, as the participants doing the assessment, also the participants using the assessment highlight the inertia of the system as a considerable difficulty. They agree that the assessment is highly important because **it is the basis for their further decisions** whose quality depends on the quality of conducted assessment.

The largest part of **the assessment for the purposes of the court is conducted by the expert team of the social welfare centre** (social worker, social pedagogue and psychologist). **The assessment for the purpose of evaluating the imposed sanctions is conducted by an expert assistant at court, whereas the assessment of a juvenile and his/her family for the purpose of applying the institute of**

opportunity is mostly conducted by an expert assistant at the municipal state attorney's office in cooperation and consultations with social welfare centre, schools etc.

The participants employed in state attorney's offices describe that **they request a social case history for each juvenile, the information on the previously conducted actions** (criminal records, family circumstances, social circumstances) **as well as the individual assessment** (personality traits, emotional maturity, cognitive functioning etc.) with sometimes defined areas necessary for them to render decisions. They state that the assessment reports of best quality are those made by a multidisciplinary team of experts (psychologist, social pedagogue, social worker) because each expert assesses a juvenile and his/her environment from their own particular perspective, discipline and profession.

In Croatia, **the individual assessment is not conducted with the purpose to determine criminal liability;** the fact is that the criminal liability is defined by the law. The participants state that the currently defined age of criminal liability is adequate, in particular considering the fact that certain actions can be undertaken towards perpetrators of criminal offences who are not criminally liable yet, in the framework of the family law and social protection in the competence of the social welfare centres (in compliance with the Family Act and the Social Welfare Act).

As stated previously, the participants particularly **appreciate the opinion and proposals of experts among the helping professions who conduct the assessment process in various institutions** (social welfare centres, social welfare educational institutions, non-legal professionals in court/state attorney's office). Without their help, findings, opinions and proposals, the quality of the rendered decision would be of much poorer quality. In addition to that, they confirm that the courts regularly accept the proposals made by state attorney's offices and based on the individual assessment and opinion of expert assistant.

The fact that non-legal professionals work in state attorney's offices and courts is seen as particularly important and useful for their work, however they point out that they lack **experts from the helping professions** at several levels. The participants employed in state attorney's offices perceive that sometimes due to the lack of expert assistants in social welfare centres, they obtain poor case histories and assessment reports, whereas the participants employed in courts explain that due to the new work arrangements structure, the nubmer of expert assisstants in courts has decreased (the number of expert assistants according to the number of cases) which has become a serious problem and challenge.

With respect to the structure of opinions and proposals, they state that the structure of opinions and proposals, as well as the contents, are defined **by the area of work of each profession** involved in the juvenile assessment process. Furthermore, the focus group participants avoid getting involved in the **contents, assessment fields and other aspects because they do not feel competent enough** to discuss that. **They trust the experts doing the assessment and are satisfied with the reports they get and use in their work.**

In order to render quality decisions, they believe that the opinions and proposals/assessment need to be **well conducted and written, explained, comprehensive and justified because they represent the basis for rendering court/state attorney decisions.**

Like the participants doing the assessment, the participants using the assessment agree with **the challenges related to the confidentiality of data:** the right to access the report given to all parties involved in the procedure, violation of confidentiality of data as all parties gain access to the report in relation to the criminal offences committed in complicity; medical confidentiality. Like the previous sub-sample, they state that **all that has been previously mentioned affects the quality of the report.**

Supplements to the reports are rarely requested, mostly due to the considerable time span and long-lasting court proceedings. If any supplements are required, the institutions cooperate well in the sense of providing urgently the requested data. In their experience, no institutions that they work with ever refused to cooperate or submit on time the requested supplements. The participants employed in courts consider problematic **the psychiatric and psychological expert tests of juveniles** (which are rare, but sometimes necessary) as well as the fact that due to a child's age (below 18) and the fact that a juvenile is still developing, the expert witness reports refuse to state whether a psychiatric diagnosis has been identified or not, which makes it difficult to select an adequate sanction for that juvenile.

d) Key difficulties and challenges in relation to adequate implementation of individual assessment

Like the previous group of experts, the experts using the assessment note similar challenges. In order to avoid repeating the contents, the key issues are listed below: **insufficient finances** at the level of justice and social welfare system in the field of juveniles with behavioural problems / in conflict with the law which is all reflected on those systems and their overall work; **inadequate quality of treatment for the juveniles** in conflict with the law, **late interventions and no family interventions; inertia of the system;** the fact that there is **no pre-trial detention for juveniles** even though it is stipulated in the law; the challenge in relation to the maximum duration of pre-trial detention which is insufficient for the implementation of procedure; excessive **focus on procedural rights of juveniles** which puts aside the child's best interest; **uneducated defence attorneys; insufficient number of specialised experts.**

In addition to that, they note that generally, in the justice system, the problem is **that the juvenile law is not given too much importance** even though this is a highly demanding and complex interdisciplinary area of work. Moreover, there is **a negative perception and disrespect shown towards legal experts** (youth judges and youth state attorneys) which is why this field has been affected by a **negative** selection **of experts** because nobody wishes to work in that field.

Furthermore, **the fact that there is no specialization of youth judges and youth state attorneys** and their deputies, that is another difficulty in this work. Consequently, the participants observe a **lack of interdisciplinary trainings for all experts employed in the justice system** on the topic of juveniles in conflict with the law.

Another difficulty noted by the participants is also the **insufficient level of harmonization achieved among the decisions rendered by the youth judges, as well as the lack of uniform case law at the state level.**

e) Key advantages and examples of good practice

This group of participants also concludes that the key advantages are a **good legislative framework that offers a wide range of possibilities to act** with respect to the juvenile and the fact that **the individual assessment,** that can be conducted in all phases of procedure**, is done for each juvenile.**

They emphasize **the availability of expert assistants in courts and state attorney's offices and their mutual cooperation** in order to complete the assessment and pass a decision on further procedure, as well as the fact that **there are good quality teams in charge of assessment** in some social welfare centres and social welfare educational institutions.

Furthermore, they confirm that the **opinions and proposals/reports** that they obtain on the juveniles' assessment are generally of excellent quality and their considerably contribute to their decisions on further procedures towards juveniles.

Among advantages they list **a good cooperation among sectors** and personal familiarity with experts from different sectors, and the exchange of experience with the colleagues from the system.

They point out that the Centre for providing services in the community Zagreb-Dugave is an example of quality implementation of the comprehensive multidisciplinary assessment of juveniles.

They consider that the obligation for **all youth judges and youth state attorneys to visit the institutions** (social welfare educational institutions, social welfare centres) **where assessment is conducted** is good because that way they have the opportunity to learn from the experts doing the assessment.

Also, they conclude that a beneficial circumstance is the fact that the social welfare educational institutions/centres for providing services in the community, regardless of the waiting lists in relation to the assessment, always **give priority to the assessment of juvenile offenders.**

Table 10: Overview of key results obtained in the topic analysis of conducted focus groups

	EXPERTS DOING IA	EXPERTS USING IA
A) Basic education in the area of juvenile justice and individual assessment	✓ *Very good with certain differences depending on the profession whereby social pedagogues claim to be most comprehensively educated in this field*	✓ *They estimate it to be insufficient and/or had no opportunity to be educated in this field during their university studies*
B) Additional education in the field	✓ *Attended trainings, however they consider there is need for further improvements particularly in the field of:* o *Standardisation of instruments and working towards uniform processes of juvenile assessment* o *Family relations* o *Cooperation among sectors* ✓ *They consider it is necessary to train defence attorneys*	✓ *They estimate it to be insufficient* ✓ *They consider that priorities should be trainings focusing on:* o *Specialisation of youth judges and youth state attorneys* o *Harmonization of procedures and practice of judges* o *Cooperation among sectors* ✓ *Also, they consider that further investments should be made in the training of defence attorneys*
C) Current status of individual assessment	✓ *Individual assessment has been well implemented and for a long time in the systems of justice and social welfare that closely cooperate in juvenile cases* ✓ *Individual assessment is done for all juvenile suspects or juveniles accused of criminal offences*	
	✓ *There are different types of assessment, at different levels and with different objectives (depending on the needs)* ✓ *Social welfare centres and social welfare educational institutions are key institutions for assessment* ✓ *They propose an obligation to be introduced that the opinion of the Social Welfare Centre contains a proposal for further procedures/santions* ✓ *They state the following challenges:* o *Insufficient number of experts doing the individual assessment* o *Problem of confidentiality of data*	✓ *They state the following challenges:* o *Insufficient number of experts doing the individual assessment and the fact that some courts and/or state attorney's offices lack non-legal professionals* o *Problem of confidentiality of data* o *The contents of findings and the opisnion are not uniform which makes it difficult for them to make further decisions*

	○ *The contents of findings and the opisnion are not uniform*	
D) Difficulties and challenges	✓ *Insufficient finances* ✓ *Challenges related to pre-trial detention for juveniles* ✓ *Inertia of the system* ✓ *Problem of confidentiality of data* ✓ *Uneducated defence attorneys* ✓ *Insufficient number of (specialized) experts* ✓ *Non-uniform practice* ✓ *Insufficient quality of treatment and a lack of a social and health treatment institution for juvenile offenders who in comorbidity also have mental health problems*	
		✓ *Marginalization of juvenile law* ✓ *Negative selection of judges and state attorneys for juveniles* ✓ *Insufficient number of specialized experts*
E) Advantages and examples of good practice	✓ *Quality legislative framework* ✓ *Available non-legal professionals in courts and state attorney's offices* ✓ *Generally high quality of opinions and proposals made on the basis of individual assessment* ✓ *Good cooperation among sectors* ✓ *Good interdisciplinary cooperation* ✓ *Available multidisciplinary teams in social welfare centres and social welfare educational institutions/centres for providing services in the community*	
		✓ *The fact that regular visits of juveniles executing their sanctions are organised* ✓ *Social welfare educational institutions/Centres for providing services in the community at the moment of reception, give priority to juvenile suspects or juveniles accused of a criminal offence*

4. CONCLUSION AND RECOMMENDATIONS

In this report, the status quo of legal regulation and practice of the individual assessment of suspected or accused children in the criminal procedure in Republic of Croatia was analyzed.
More specifically, national legal regulation, implementation of applicable EU law, UN conventions and other legal acts was presented as well as available and relevant statistical indicators and the description of individual assessment implementation in the Republic of Croatia.
In the last part of the report, the results of the interviews/focus groups with experts were presented, focusing on their practical experience and with a particular emphasis on their examples of good practice and suggestions for improvement of individual assessment.

All the information presented suggest that legislation in Croatia respects the international conventions, contracts, directives, guidelines and recommendations on procedures towards suspected or accused juveniles and integrates them in the contents of relevant acts. Individual assessment is recognized as an essential and indispensible and is implemented on various levels and in different phases of criminal proceedings. Furthermore, it is legally well standardized, implemented in practice for many years and in various institutions.

On the other hand, there are still some shortcomings as well as possibilities for improvement. The areas recognized, both based on the literature review and on the expert interviews, as those that need to be addressed and improved are: implementation of the uniform process of individual assessment, investing into continuous education of experts (both those doing and those using the individual assessment), harmonization of interventions with beneficiary needs and improving the quality of sanction implementation in practice.

Procedural safeguards of accused or suspected children: improving the implementation of the right to individual assessment

IA-CHILD

JUSTICE PROGRAMME, JUST-AG-2017/JUST-JACC-AG-2017

NATIONAL REPORT

GREECE

Authors of the Report:

Professor Dr. Angelika Pitsela,
Assistant Professor Dr. Georgios Nouskalis,
Dr. Charalampos Karagiannidis,
Anastasia Giagkou
Aristotle University of Thessaloniki

October, 2019.
Greece

1. Juvenile justice system and legal regulation of individual assessment

1.1 Description of legal background and regulation of juvenile justice system in Greece

1.1.1 Which legal acts? Are there specific legal acts (lex specialis)?

In Greece, the juvenile justice system functions as a specialized form of administration of justice and is guided by the principles of education and protection of the child's best interest.[1] In particular, article 21 of the Greek Constitution foresees that the childhood shall be under the protection of the State, while the State shall adopt special measures for the protection of youth. Furthermore, article 96 of the Greek Constitution foresees *firstly* that special statutes shall regulate matters pertaining to juvenile courts, *secondly* that the principles of publicity of the sittings of all courts according to article 93 paragraph 2 and the trial of felonies and political crimes by mixed jury courts according to article 97 need not apply in cases of children and *thirdly* that the judgments of juvenile courts may be pronounced in camera.[2]

The Greek Constitution of 1927 provided for the first time for special laws for the regulation of the Juvenile Courts system. In 1931 an independent law on Juvenile Courts (Law no. 5098/1931) was enacted in Greece, but it was never implemented and was formally repealed by the "Emergency Law" no. 2135/1939. Nowadays, in the General Part of the Greek Criminal Code of 1950 (Law no. 1492/1950), a special chapter, the eighth and final chapter is entitled as "Special provisions for minors" as it contains substantive law provisions for minor delinquents and functions as a *lex specialis* to the general criminal law. That means that the general provisions of the Greek Criminal Code apply to children only when no relevant provisions are foreseen in the eighth chapter and provided that the general provisions are in accordance with the meaning and purpose of the specific provisions for children.[3] On 11.06.2019 the Greek Criminal Code of 1950 was amended by the enactment of Law no. 4619/2019 (in force since 7.7.2019).[4]

In addition, the criminal procedure followed in cases of minors in conflict with the law is regulated by the provisions of the Greek Code of Criminal Procedure of 1950 (Law no. 1493/1950). Generally the provisions of the Greek Code of Criminal Procedure are applicable both to adults and minors, whereas only certain specified procedural rules relevant to minors are foreseen in the Greek Code of Criminal Procedure (such as the provisions about the refraining from prosecution, the restrictive measures, the pre-trial detention and the Juvenile Courts).[5] On 11.06.2019 the Greek Code of Criminal Procedure of 1950 was also amended by Law no. 4620/2019 (in force since 7.7.2019).[6]

Moreover, the correctional treatment of adults and minors detainees is governed by the law provisions of the Greek Correctional Code of 1999 (Law no. 2776/1999). A few correctional provisions for minors have been integrated into the Correctional Code, while a specified legal framework on the

---

[1] Pitsela, A. (2013). *The Penal Treatment of Juvenile Delinquency*. 7th Ed., Athens-Thessaloniki: Sakkoulas Publications, pp. 66-99 (in Greek).

[2] The Constitution of Greece. Retrieved on 25.09.2019 from: http://www.hri.org/docs/syntagma/artcl120.html.

[3] Pitsela, A. (2011). *Greece*. In: Juvenile Justice Systems in Europe. Current Situation and Reform Developments. 2nd Ed., Forum Verlag Godesberg, pp. 624-625.

[4] Ratification of the Greek Criminal Code by Law no. 4619/2019. Retrieved on 25.09.2019 from: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=d-eIhEXNm_Y%3d&tabid=534 (in Greek).

[5] Pitsela 2011, p. 625.

[6] Ratification of the Greek Code of Criminal Procedure by Law no. 4620/2019. Retrieved on 25.09.2019 from: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=tUzwSIbnWNY%3d&tabid=534 (in Greek).

function of institutions for young offenders has been created with the enactment of the Internal Regulation for the Operation of Institutions for Young Detainees in the year 2005 (Ministerial Decision 47503/2005).[7]

During the first decades of the 21st century and under the influence of international human rights standards, the Greek juvenile law has been in a process of a reform. The introduction of important amendments by the enactment of several Laws (Law no. 3189/2003, Law no. 3860/2010, Law no. 4322/2015, Law no. 4356/2015, Law no. 4619/2019 and Law no. 4620/2019) has given a child-friendly orientation to the Greek juvenile justice system.[8]

1.1.2 Minimum age of criminal responsibility

According to article 1 of the United Nations Convention on the Rights of the Child as it was ratified in Greece by Law no. 2101/1992, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.[9] In the Greek legal order, the civil majority is attained at the 18th year of age according to article 127 of the Greek Civil Code (as it was amended by Law no. 1329/1983).[10] The voting age was also set at the age of 18 according to article 1 of Law no. 1224/1981 but it was lowered to 17 according to Law no. 4555/2018.[11]

In Greek juvenile criminal law, the minimum age of criminal responsibility means the minimum age, above which a minor may be sentenced to detention in a young offenders' institution. Detention in a young offenders' institution is the sole punishment which is imposed only when the minor is held criminally responsible. On the other hand, the imposition of educational or therapeutic measures does not presuppose the establishment of the minor's criminal responsibility.[12]

Since 1950, relative criminal responsibility began at the age of 12, while after the enactment of Law no. 3189/2003 (article 1), this age limit was raised to the age of 13. Due to the reform by Law no. 3860/2010 (article 2) as well as by Law no. 4322/2015 (article 7) and Law no. 4619/2019, the minimum age of criminal responsibility is now fixed at the 15th year of age (art. 121 and 126 of the Greek Criminal Code).[13]

More specifically, the special provisions of the eighth chapter of the General Part of the Criminal Code are applicable to minors, which means to persons who were between the age of 12 and 18 at the time of the commission of the offence (art. 121 of the Greek Criminal Code). Persons between the age of 12 and 15 are "not criminally responsible" and when they infringe the criminal law, they are

---

[7] Pitsela 2011, p. 625.
[8] Ibid.
[9] Naskou-Perraki, P., Chrysogonos, K., Anthopoulos, Ch. (2002). *The United Nations Convention on the Rights of the Child and the national legal order*. Athens-Komotini: Ant. N. Sakkoulas Publications, pp. 31-37 (in Greek).
[10] Danilatou, A., Polyzoidou, B. & Mpistouna Y. (2016). *The Law of Protection of the Minor. Civil, Criminal and Public Law*, Athens: Nomiki Bibliothiki, pp. 15-37 (in Greek).
[11] Law no. 4555/2018. Retrieved on 12.10.2019 from: https://www.e-nomothesia.gr/autodioikese-demoi/nomos-4555-2018-phek-133a-19-7-2018-1.html (in Greek).
[12] Pitsela 2013, pp. 55, 199-204.
[13] Dimopoulos, Ch. & Kosmatos, K. (2011). *Juvenile Law. Theory and Practice*. 2nd Ed., Athens: Nomiki Bibliothiki, pp. 46-48 (in Greek); Evaggelatos, G. Ath. (2014). *The Law of Minor Perpetrators. Interpretation of Articles-Comments-Applications*, Athens: Nomiki Bibliothiki, pp. 27-33 (in Greek); Seferidis. H. Nik. (2015). *The Penal Treatment of Minor Perpetrators*, Athens: Nomiki Bibliothiki, pp. 42-64 (in Greek).

subject only to educational or therapeutic measures, while persons between the ages of 15 and 18 are either "not criminally responsible" as a rule and in this case only educational or therapeutic measures are ordered against them or they may be regarded as "criminally responsible" and so the court may impose detention in a young offenders' institution only when the minors have committed certain categories of felonies and if the court ascertains that educational measures are not sufficient so as to deter the minors from the commission of further crimes (article 126 and 127 of the Greek Criminal Code). Persons between the age of 18 and 25 are young adults and when they infringe the criminal law, the court may impose: a) detention in a young offenders' institution if it considers that the commission of the offence is attributed to the incomplete development of his/her personality due to his/her young age and that the imposition of detention in a young offenders' institution will be sufficient so as to deter the young adult from the commission of further crimes, or b) mitigated punishment according to art. 83 of the Greek Criminal Code (article 133 of the Greek Criminal Code).[14]

1.1.3 Types of measures/sanctions for juvenile offenders in Greece

In the Greek juvenile criminal law an independent system of measures and sanctions for minors has been established. That means that the legal consequences of juveniles' criminal acts are subdivided into educational measures, therapeutic measures and detention in a young offenders' institution. The general idea is that ambulant treatment has a precedence, whereas deprivation of liberty is always imposed as a measure of last resort. On this ground, the catalogue of ambulant educational measures has been significantly enriched (article 122 of the Greek Criminal Code, as it was amended by article 1 of Law no. 3189/2003), the ambulant therapeutic treatment has been introduced (article 123 of the Greek Criminal Code, as it was amended by article 1 of Law no. 3189/2003) and detention in a young offenders' institution is imposed only when strictly defined presuppositions are fulfilled (article 127 of the Greek Criminal Code, as it was amended by article 2 of Law no. 3860/2010, article 7 of Law no. 4322/2015, article 26 of Law no. 4356/2015 and Law no. 4619/2019).[15]

More specifically, the educational measures (*anamorfotika metra*) are mainly a non-custodial form of intervention aiming to promote the education and the social inclusion of young offenders (article 122 of the Greek Criminal Code). The child's criminal responsibility is not a mandatory presupposition for the imposition of educational measures.[16]

Since 1950 and before the reform by Law no. 3189/2003, only four educational measures were foreseen: a) reprimand, b) placing the minor under the responsible care of parents or guardians, c) placing the minor under the care of Youth Protection Associations, Youth Centers or Juvenile Probation Service and d) placing the minor in an appropriate public, municipal, community or private educational institution.[17]

---

[14] See Law no. 4619/2019.

[15] Pitsela 2011, pp. 634ff.; Law no. 4322/2015. Retrieved on 12.10.2019 from: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=cnpkwa3KnDE%3d&tabid=132 (in Greek); Law no. 4356/2015. Retrieved on 12.10.2019 from: http://www.ministryofjustice.gr/site/Portals/0/uploaded_files/uploaded_15/N_4356.pdf (in Greek); see also Law no. 4619/2019.

[16] Pitsela 2013, pp. 199-208.

[17] Dimopoulos & Kosmatos 2011, p. 60.

In accordance with article 1 of Law no. 3189/2003, a wide list of educational measures was added so that now the educational measures are provided for exhaustively in the text of the law, they are graduated according to the intensity of the treatment and they can be enumerated as follows: a) reprimand, b) placing the minor under the responsible care of parents or guardians, c) placing the minor under the responsible care of a foster family, d) placing the minor under the care of Youth Protection Associations, Youth Centers or Juvenile Probation Service, e) mediation between the young offender and the victim, so that the offender can apologize to the victim and, in a general sense, so that the consequences of the act can be settled out of court, f) compensation of the victim or by some other means the removal or alleviation of the consequences of the act (reparation), g) performance of community work, h) participation in social and psychological programs organized by public, municipal, local authority or private institutions, i) attendance at vocational schools or other training or vocational training facilities, k) participation in special road safety training programs, l) placing the minor under the intensive care and supervision of Youth Protection Associations or Juvenile Probation Service and m) placing the minor in an appropriate public, municipal, community or private educational institution.[18]

Due to the reform by Law no. 4619/2019, the numbering of the list of educational measures has slightly changed, as performance of community work is set as a measure number (k).[19]

In each case, the court may impose on the minor as additional educational measures further obligations in relation to his/her lifestyle or education. In exceptional cases, the court may impose two or more of the aforementioned non-custodial educational measures (a-l).[20]

Due to the reform by Law no. 4619/2019, it is now explicitly foreseen that the principle of subsidiarity applies when the court has to decide on the educational measure which shall be imposed. The educational measures mentioned in letters a-i of article 122 Sec. 1 of the Greek Criminal Code have a precedence over the other measures mentioned in letters k-m. The content and the duration of each measure must be proportionate to the gravity of the offence committed, the minor's personality and his/her living conditions.[21]

Therapeutic measures (*therapeutika metra*) constitute a special form of treatment and they are imposed when the minor's mental state or health conditions require a therapeutic intervention (article 123 of the Greek Criminal Code). The minor may lack imputability and he/she must not be deemed criminally responsible so as to be subject to a therapeutic treatment.[22]

Before the reform by Law no. 3189/2003, only a custodial form of therapeutic treatment was foreseen as the sole custodial therapeutic measure of placing the minor in a therapeutic or other appropriate institution could be imposed. In this case, the court ought to take into consideration a report drafted by an expert doctor.[23]

[18] Pitsela 2011, p. 634.
[19] See Law no. 4619/2019.
[20] Pitsela 2011, p. 635.
[21] See Law no. 4619/2019.
[22] Pitsela 2011, pp. 635-636; Evaggelatos 2015, pp. 17-22.
[23] Dimopoulos & Kosmatos 2011, pp. 87-88.

In accordance with article 1 of Law no. 3189/2003, an ambulant form of therapeutic intervention is now possible,[24] whereas due to Law no. 4619/2019 the presuppositions for a therapeutic treatment have been slightly reformed.[25]

In particular, when the minor suffers from a mental illness or an organic disease or he/she is in a condition that causes him/her a serious physical dysfunction or he/she is internet-, alcohol or drug-addicted and he/she cannot cease by him/herself or when he/she exhibits a significant retardation in his/her moral or mental development, the court will impose one of the following measures: a) placing under the responsible care of the parents, guardians or a foster family, b) placing under the care of Youth Protection Associations or Juvenile Probation Service, c) participation in a therapeutic advisory program or d) placing in a therapeutic or other appropriate institution. In exceptional cases the court may impose the measures mentioned in a) and b) in combination with the measure mentioned in c).[26]

In all cases, the therapeutic measures may be ordered only after a specialized group of doctors, psychologists and social workers, who are subject to the Ministry of Justice or to health centers or to public hospitals, have made a diagnosis and expressed their opinion on the child's health state. Since 2003 this group of specialists has not been set up and thus no progress as regards to this part of the provision has been made.[27]

Detention in a young offenders' institution (*periorismos se eidiko katastima kratisis neon*) is the sanction imposed on juveniles which leads to deprivation of liberty (Article 127 in conjunction with Article 51 Sec. 1 and Article 54 of the Greek Criminal Code).[28] Juveniles must be held criminally responsible so that the court can impose detention in a young offenders' institution on them. Although detention in a young offenders' institution is a sui generis punishment, it primarily aims to serve the young delinquents' special needs, especially their correction and social integration. It is imposed as a measure of last resort, while the presuppositions for its application have been reformed by Law no. 3860/2010 (Article 2), Law no. 4322/2015 (Article 7), Law no. 4356/2015 (Article 26) and Law no. 4619/2019.[29]

Before the reform by Law no. 3860/2010 (article 2) detention in a young offenders' institution was imposed on minors over the age of 13 and particularly when the court after examining the circumstances of the offence and the minor's personality regarded that a prison sentence was necessary so as to deter the minor from recidivism. In this way, the minor's punishment was linked to a prediction of a risk for re-offending.[30]

After the enactment of Law No. 3860/2010 (article 2) detention in a young offenders' institution could be imposed on minors over the age of 15 and when the crime committed was a felony and it

[24] Dimopoulos & Kosmatos 2011, pp. 87-88.
[25] See Law no. 4619/2019.
[26] Pitsela 2011, pp. 635-636; See also Law no. 4619/2019.
[27] Pitsela 2013, p. 254; Seferidis 2015, p. 105.
[28] It should be mentioned that the custodial educational measure of placing the minor in an appropriate public, municipal, community or private educational institution (article 122 of the Greek Criminal Code) as well as the custodial therapeutic measure of placing the minor in a therapeutic or other appropriate institution (article 123 of the Greek Criminal Code) also lead to deprivation of liberty.
[29] Pitsela 2011, p. 636; See also Laws no. 4322/2015, no. 4356/2015 and no. 4619/2019.
[30] Dimopoulos & Kosmatos 2011, pp. 94-102; Pitsela 2013, pp. 257-271; Evaggelatos 2014, pp. 29-33; Seferidis 2015, pp. 115-124.

involved elements of violence or it turned against life or bodily integrity or it was committed professionally or persistently. Thus, the conditions for detention became stricter.[31]

According to the reforms by Law no. 4322/2015 (Article 7) and Law no. 4356/2015 (article 26) detention in a young offenders' institution could be imposed still on minors over the age of 15 and in relation to the commission of a serious offence and concretely if a minor committed an offence, which would be characterized as a felony punishable by law with life imprisonment if it was committed by an adult, or if the minor committed rape (Article 336 of the Greek Criminal Code) against another person under the age of 15. What is more, detention in a young offenders' institution could be imposed if a minor over the age of 15 was subject to the educational measure of placement in an educational institution and after his/her placement in the institution he/she committed an offence, which would be characterized as a felony if it was committed by an adult. So, the framework for the imposition of detention became more precise.[32]

Due to the reform by Law no. 4619/2019 detention in a young offenders' institution may now be imposed still on minors over the age of 15 and when the crime committed would be characterized as a felony if it was committed by an adult and it involves elements of violence or it turns against life or bodily integrity. In this way, the Greek legislator reformed the presuppositions for detention as they were approximately foreseen according to Law no. 3860/2010.[33]

Furthermore, the principle of priority of educational measures over detention in a young offenders' institution is evident through the provision of Article 127 of the Greek Criminal Code, which explicitly foresees that the judgment imposing detention in a young offenders' institution should include a special and thorough justification of the reasons which led the court to decide that the educational or therapeutic measures were deemed insufficient in the specific case so as to deter the minor from reoffending, whereas the particular circumstances of the offence and the minor's personality shall be taken into account.[34]

1.1.4 Length of different measures/sanctions for juvenile offenders

The rules about the replacement or revocation of educational and therapeutic measures (article 124 of the Greek Criminal Code) as well as about their duration (article 122 and article 125 of the Greek Criminal Code) have been reformed by article 1 of Law no. 3189/2003 as well as recently by Law no. 4619/2019.[35] Nowadays, the following provisions are applicable:

According to Article 122 Sec. 4 of the Greek Criminal Code, the court in its judgment must define the maximal duration of the imposed educational measure.[36]

---

[31] Dimopoulos & Kosmatos 2011, pp. 94-102; Pitsela 2013, pp. 257-271; Evaggelatos 2014, pp. 29-33; Seferidis 2015, pp. 115-124.
[32] See also Laws no. 4322/2015 and no. 4356/2015.
[33] See also Law no. 4619/2019.
[34] Pitsela 2011, p. 636.
[35] Pitsela 2011, p. 635; See also Law no. 4619/2019.
[36] Evaggelatos 2014, pp. 5, 13-14; See also Law no. 4619/2019.

According to Article 123 Sec. 2 of the Greek Criminal Code, the court orders therapeutic measures only after having requested the submission of the report by a specialized group of doctors, psychologists and social workers, who make a diagnosis on the minors' health state.[37]

According to Article 124 of the Greek Criminal Code, the court which imposes educational measures has the right to replace them by others anytime when this is deemed to be necessary, while the court revokes the measures when their purpose has been fulfilled. Similarly the court which imposes therapeutic measures has the right to replace them by others anytime when this is deemed to be necessary and revokes them when their purpose has been fulfilled. But as regards to the therapeutic measures, an additional presupposition for replacing or revoking the measures is that the court requires and takes into account the report drafted by the aforementioned experts. The court has also the right to replace the imposed educational measures by therapeutic ones only after having taken into consideration the experts' report. No later than one year after the imposition of the measures, the court examines whether the conditions for replacement or revocation of the measures exist.[38]

According to Article 125 of the Greek Criminal Code, the educational measures imposed by the court end ipso jure when the minor attains the age of 18. The court may decide the continuation of the measures till the young person attains the age of 21 but in this case the court has to justify thoroughly the reasons for such a decision. The court may also decide the continuation of the therapeutic measures till the young person attains the age of 21 only after having taken into account the experts' report according to article 123 Sec. 2 of the Greek Criminal Code.[39]

According to Article 130 of the Greek Criminal Code, the educational measures imposed by the court end ipso jure as soon as the minor reaches the age of 25, provided that the person was still underage at the time of the commission of the offence but he/she was over 18 at the time of sentencing.[40]

Detention in a young offenders' institution used to be indefinite. Due to the reform by Law No. 3189/2003 (article 1 Sec. 8) detention is now imposed for a fixed period of time (article 127 and article 54 of the Greek Criminal Code). The range of the sentence of detention in a young offenders' institution is defined in the text of the law, in particular in article 54 of the Greek Criminal Code. However, when the court has to impose the punishment, it must define the exact duration of the punishment in its judgment.[41]

The provision of article 54 of the Greek Criminal Code, which foresees the range of the sentence of detention in a young offenders' institution, was reformed by article 1 of Law no. 3860/2010, by article 2 of Law no. 4322/2015 and by Law no. 4619/2019.[42]

Before the reform by Law no. 3860/2010, the duration of detention could be from 6 months to 10 years if the offence committed was punishable by law for adults with an imprisonment of up to 10

[37] Evaggelatos 2014, pp. 18, 21; See also Law no. 4619/2019.
[38] Evaggelatos 2014, pp. 22-25; See also Law no. 4619/2019.
[39] Evaggelatos 2014, pp. 25-26; See also Law no. 4619/2019.
[40] Evaggelatos 2014, pp. 47-51; See also Law no. 4619/2019.
[41] Dimopoulos & Kosmatos 2011, p. 104; Pitsela 2013, pp. 273ff.
[42] Evaggelatos 2014, pp. 64-65; See also Laws no. 4322/2015 and no. 4619/2019.

years. If the offence committed was punishable by law for adults with an imprisonment of more than 10 years, then the duration of detention was from 5 to 20 years.[43]

The United Nations Committee on the Rights of the Child stated in its "Concluding Observations" to the first Greek report (2002) that the maximal duration of 20 years was not in conformity with the human rights standards and recommended the abolition of the relevant provision.[44]

As a result and after the enactment of Law No. 3860/2010, the duration of detention was from 6 months to 5 years if the offence committed was punishable by law for adults with imprisonment of up to 10 years. If the offence committed was punishable by law for adults with life imprisonment or imprisonment for more than 10 years, the duration of detention might be from 2 to 10 years. In exceptional cases, detention of a maximal duration of 15 years could be imposed, when the minor committed a serious crime, which was punishable by law for adults with life imprisonment or imprisonment of at least 10 years.[45]

The United Nations Committee on the Rights of the Child welcomed in its "Concluding Observations" to the second and third Greek report (2012) the abolition of the provision on the maximal duration of 20 years of the sentence of detention. Nevertheless, it criticized negatively that it was still possible to impose detention of a duration of 10 or 15 years.[46]

After the enactment of Law no. 4322/2015, the part of the provision, which foresaw a maximal duration of 15 years in cases of severe offences, was abolished.[47]

Nowadays and due to the recent reform by Law no. 4619/2019, the duration of detention is still now from 6 months to 5 years if the offence committed is punishable by law for adults with imprisonment of up to 10 years. If the offence committed is punishable by law for adults with life imprisonment or imprisonment for more than 10 years, the duration of detention may be from 2 to 8 years.[48]

1.1.5 Which Ministry/sector is responsible for conducting sanctions for juvenile offenders?

In Greece, the juvenile probation officers who work at the Juvenile Probation Service have – among others -- the duty to implement the measures of placing the minor under the care or under the intensive care of the Juvenile Probation Service as well as to monitor the minors on whom the other measures foreseen in article 122 of the Greek Criminal Code have been imposed (article 7 of the Presidential Decree 49/1979 and article 29 of the Presidential Decree 96/2017). The juvenile probation

[43] Dimopoulos & Kosmatos 2011, p. 102ff.; Pitsela 2013, pp. 276ff.
[44] Concluding Observations of the United Nations Committee on the Rights of the Child to the First Periodic Report of Greece (2002). Retrieved on 9.10.2019 from: http://www.nchr.gr/index.php/en/reports-by-international-and-european-institutions-for-greece/2013-04-03-11-33-21/un-crc
[45] Dimopoulos & Kosmatos 2011, p. 102ff.; Pitsela 2013, pp. 276ff.
[46] Concluding Observations of the United Nations Committee on the Rights of the Child to the Second and Third Periodic Report of Greece (2012). Retrieved on 9.10.2019 from: http://www.nchr.gr/index.php/en/reports-by-international-and-european-institutions-for-greece/2013-04-03-11-33-21/un-crc
[47] See also Law no. 4322/2015.
[48] See also Law no. 4619/2019.

officers are civil servants, while the juvenile probation service is organizationally subject to the Ministry of Justice (Law no. 378/1976, Presidential Decrees 36/2000 and 40/2011).[49]

Additionally, the juvenile public prosecutor in each juvenile court has the duty to ensure the enforcement of the juvenile court's judgments as well as to supervise the implementation of educational or therapeutic measures as well as the execution of detention in a young offenders' institution (article 549 of the Greek Code of Criminal Procedure). The juvenile public prosecutor belongs to the judicial power of the country and the conditions of his/her service are regulated by the Ministry of Justice in accordance with the Greek Constitution (articles 87 to 100A) and the Code of the Organization of Courts and the Status of Judicial Officers.[50]

Furthermore, there are three institutions responsible for the exercise of the prison policy: a) the Central Scientific Council of Prisons having as main mission to propound proposals for the crime and prison policy, b) the Central Committee for Transfers which orders and regulates all matters with regard to the detainees' transfers and c) the Prison's Council which is competent to propose or participate in decisions in relation to issues arising in each concrete prison. The first two institutions used to be organizationally subject to the Greek Ministry of Justice (articles 8 to 10 of the Greek Correctional Code).[51] Due to the enactment of the Presidential Decree 81/2019, these institutions are now subject to the Ministry of Citizen Protection.[52]

1.1.6 Are there alternative/diversion measures within juvenile justice system in Greece?

According to Article 43 Sec. 1 of the Greek Code of Criminal Procedure, in Greece the legality principle applies. That means that the public prosecutor is entitled and obliged to initiate criminal proceedings if the evidence that a crime was committed is strong enough. Thus, the principle of opportunity or the expediency principle is an exception in criminal procedural law.[53]

An example of the application of the expediency principle in criminal proceedings is the introduction of diversion in Greek juvenile law. Diversion as an informal reaction to juvenile delinquency in terms of refraining from prosecution by the public prosecutor was first provided for by Law No. 3189/2003 (Article 4 Sec. 2).[54]

According to Article 46 of the Greek Code of Criminal Procedure, when a minor commits a misdemeanor, the public prosecutor may decide to refrain from prosecution if after having examined the facts of the case and the minor's personality, he/she regards that a prosecution is not necessary in

---

[49] Pitsela 2013, pp. 340-350; See also Presidential Decree 96/2017 on Organization of the Ministry of Justice, Transparency and Human Rights , as it abolished Presidential Decree 101/2014 on Organization of the Ministry of Justice, Transparency and Human Rights. Retrieved on 11.10.2019 from: http://www.ministryofjustice.gr/site/Portals/0/uploaded_files/uploaded_25/%CE%A6%CE%95%CE%9A%20%CE%9F%CE%A1%CE%93%CE%91%CE%9D%CE%99%CE%A3%CE%9C%CE%9F%CE%A5.pdf (in Greek).

[50] Pitsela 2013, pp. 319-332.

[51] Sykiotou, A. (2013). *The Draft of the New Correctional Code. Rationalization of Our Correctional System*, Athens: Nomiki Bibliothiki, pp. 117-120 (in Greek).

[52] Presidential Decree 81/2019. Retrieved on 11.10.2019 from: https://www.e-nomothesia.gr/kubernese/proedriko-diatagma-81-2019-phek-119a-9-7-2019.html (in Greek).

[53] Papadamakis, A. (2011). *Criminal Procedure. The Structure of Criminal Trial*. 5th Ed., Athens-Thessaloniki: Sakkoulas Publications, pp. 308-311 (in Greek).

[54] Pitsela 2011, pp. 632-633.

order to prevent the minor from committing further criminal acts. The public prosecutor may order that the minor must perform one or more of the ambulant educational measures foreseen in Article 122 of the Greek Criminal Code and he/she determines the period of time within which these obligations must be fulfilled. According to Article 139 of the Greek Code of Criminal Procedure, the public prosecutor must always justify in his/her decision why he/she chose to impose the educational measures on the minor. In any case, the public prosecutor must hear the minor before he/she decides on diversion and he/she must take into account the report drafted by the juvenile probation officer.[55]

As regards to the modifications of the provision of Article 46 of the Greek Code of Criminal Procedure, these can be described as follows: *firstly* according to Article 5 of Law No. 3860/2010 the obligatory hearing of the minor by the public prosecutor was introduced,[56] *secondly* according to Article 9 of Law No. 4322/2015 the mandatory submission of a report by the juvenile probation officer was foreseen and *thirdly* according to the same Article 9 of Law No. 4322/2015 the provision which foresaw that the public prosecutor could impose on the minor the payment of a sum of money of up to 1000 euros in favor of a non-profit institution was deleted. As it is stated in the Explanatory Report of Law no. 4322/2015, the imposition of a financial measure in a time of financial crisis could be addressed only to a limited number of juveniles, while its educational effect seems to be limited as the measure is more likely to be fulfilled by the juveniles' parents or guardians and not by the juveniles.[57]

Due to the ratification of the new Code of Criminal Procedure by the enactment of Law no. 4620/2019, the initial article 45 A of the Greek Code of Criminal Procedure which regulates the diversion is renumbered to article 46.[58] What is more, the part of the provision which foresaw the application of diversion by commission of petty offences was deleted due to the abolition of petty offences by the enactment of Law no. 4619/2019.[59]

Lastly, it should be mentioned that the educational measures foreseen in Article 122 of the Greek Criminal Code can be imposed at the stage of diversion before the initiation of the criminal proceedings, at the stage of the investigation of the case as restrictive measures instead of pre-trial detention as well as at the stage of the main hearing by the sentencing by the court. That means that identical forms of reaction are foreseen at different stages of the proceedings.[60]

1.2 Description of the legal criminal procedure for juvenile offenders in Greece

1.2.1 Which institutions are responsible for criminal procedure for juvenile offenders?

The juvenile justice system in Greece is considered as a component but also a vital part of a broader strategy for the prevention and control of juvenile delinquency. The system includes along

[55] Pitsela 2011, pp. 632-633.
[56] Explanatory Report of Law no. 3860/2010. Retrieved on 2.10.2019 from: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=EDGoAWfMKgM%3d&tabid=132 (in Greek).
[57] Explanatory Report of Law no. 4322/2015. Retrieved on 2.10.2019 from http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=_1ulBzQXENA%3d&tabid=132 (in Greek).
[58] See also Law no. 4620/2019.
[59] See also Law no. 4619/2019.
[60] Pitsela 2011, pp. 632-633.

with the Juvenile Courts other bodies and services, such as the Police, the Public Prosecutor's Office, the Law Bar, the Juvenile Probation Service and the Social Welfare Probation Service merged to the Service of Juvenile Probation Officers and Social Welfare Probation Officers, the Youth Protection Associations, the Central Scientific Council for the Prevention and Confrontation of the Victimization and the Criminality of Minors, the Educational and Therapeutic Institutions and the Penitentiary.[61]

The **Juvenile Courts** have jurisdiction to decide on the imposition of measures or sanctions foreseen in the Greek Criminal Code for juvenile offenders, in particular juveniles who were between 12 and 18 years of age at the time the offense was committed (article 121 of the Greek Criminal Code). The legal status regarding the establishment, jurisdiction and functioning of Juvenile Courts is provided for in the Greek Code of Criminal Procedure and the Code of the Organization of Courts and the Status of Judicial Officers.[62]

The Juvenile Courts are Single Member Juvenile Courts, Three Member Juvenile Courts and, finally, Juvenile Court of Appeals. The Juvenile courts of first instance, i.e. the single and three-member courts operate at the seat of each Court of First Instance, while the three member Juvenile Courts of Appeals operate at the seat of each Court of Appeal. On invalidity the Juvenile Courts should always have an appointed Juvenile Judge in their composition.[63]

According to article 113 of the Greek Code of Criminal Procedure, Juvenile Courts adjudicate cases of offences committed by minors and impose either educational or therapeutic measures as those defined by the Greek Criminal Code or penalties in the following distinctions: [i] The single-member Juvenile Court adjudicates acts committed by minors other than those adjudicated by the three-member Juvenile Court. [ii] The three-member Juvenile Court adjudicates offenses committed by minors, which are referred to in article 127 of the Greek Criminal Code. Finally, according to article 114 of the Greek Code of Criminal Procedure, Juvenile Courts of Appeal hear appeals against decisions of both the single and the three-member Juvenile Courts.[64]

According to article 130 Sec. 3 of the Greek Code of Criminal Procedure, if a minor is involved in criminal offences along with adult offenders, the criminal prosecution is separated for him/her and the minor is tried by the Juvenile Court. It must be noticed that prior to the amendment of the Code of Criminal Procedure by the Law no. 4620/2019, it was possible to have join trial of the case of juvenile with the adult offenders in certain cases, i.e. when [a] the crime was a misdemeanor, [b] the minor participant had reached the age of 15 years old at the time of the commission of the crime; and finally [c] the Public Prosecutor in the case of direct entry in trial or the Judicial Council considered that separation was not appropriate for reasons relating to the interests of Justice. The Public Prosecutor ought to justify in his/her decision the particular reasons for not separating the case of juvenile with the adult offenders.[65]

The **Police** is the first official form of power and social control that a minor comes into contact with. The minor may also contact formal and informal sources of social control i.e. parents, school and

[61] Pitsela 2013, p. 332.
[62] Pitsela 2013, pp. 309ff.
[63] Pitsela 2013, p. 310.
[64] Law no. 4623/2019. Retrieved on 14.10.2019 from: https://www.e-nomothesia.gr/autodioikese-demoi/nomos-4623-2019-phek-134a-9-8-2019.html (in Greek).
[65] Dimopoulos & Kosmatos 2011, pp. 159-160; See also Law no. 4620/2019.

community, either prior to or simultaneously to the contact with the police. Police officers are usually the first law enforcers as members of the first subsystem of the juvenile justice system.[66]

The protection of minors is a major issue for the Ministry of Citizen Protection (formerly Ministry of Public Order) and the Hellenic Police Headquarters. To this end, specialized and appropriately staffed agencies operate at the Hellenic Police, at central and regional level. More specifically, these agencies are: [a] the Public Security Directorate of the Hellenic Police Headquarters, which is responsible for the coordination of regional agencies and their guidance on the proper handling of juvenile affairs, [b] the Department of Juvenile Protection of the Cybercrime Division, [c] the Juvenile Protection Directorate of the Security Directorate of Attica, [d] the Department of Minors of the Security Directorate of Thessaloniki and [e] the Juvenile Offices of the Security Directorates of Patras and Heraklion. Where there are no specialized Departments, the related competence for dealing with juvenile cases is exercised by the Security Services under the direction of the aforementioned Public Security Directorate of the Hellenic Police Headquarters.[67]

According to article 27 Sec. 1 of the Greek Code of Criminal Procedure, the **Public Prosecutor** prosecutes in the name of the State. In the case of the Courts of Athens, Piraeus, Thessaloniki and Patras, the Prosecutor of Appeals appoints a Public Prosecutor and his Deputy in particular for the prosecution of minors. According to article 27 Sec. 3 of the Greek Code of Criminal Procedure, the prosecuting authority is the Prosecutor of each court.[68]

The **Defense Lawyer** has an active role at all stages of the criminal proceedings, as he/she represents the suspected or accused juvenile and supports him/her in accordance with articles 89 et seq. of the Greek Code of Criminal Procedure. According to article 340 Sec. 1 of the Greek Code of Criminal Procedure, during the main hearing of the court the Juvenile Judge is obliged to appoint a defense lawyer for an accused juvenile who does not have any, in the cases the juvenile is accused of having committed a crime, which would be a felony if it was committed by an adult and it involves elements of violence or it turns against life or bodily integrity in accordance with article 127 of the Greek Criminal Code.[69]

The **Juvenile Probation Service** (merged to the Service of Juvenile Probation Officers and Social Welfare Probation Officers) has a central position to the juvenile justice system, as it contributes to the effective fulfillment of the principle of education and social reintegration, mainly through the conduct of social inquiry and the implementation and supervision of non-custodial educational measures. The Juvenile Probation Service organizationally belongs to the Ministry of Justice and operates at the seat of each Court of First Instance (Presidential Decree no. 49/1979).[70]

Finally, the **Youth Protection Associations** play a significant role, as their primary aim is to actively contribute to the prevention of child victimization and delinquency. Among others, the Youth Protection Associations support minors pending criminal proceedings, while furthermore they provide accused minors with legal assistance (article 18 of Law no. 2298/1995 and Law no. 3860/2010). They

---

[66] Spinellis, C.D., Troianou, A. (1987). *Juvenile Law – Penal Regulations and Criminological Extensions*. Athens – Komotini: Ant. N. Sakkoulas Publications, pp. 64, 68 (in Greek).
[67] The Ministry of Citizen Protection. Retrieved on 14.10.2019 from: http://www.mopocp.gov.gr (in Greek); The Hellenic Police Headquarters. Retrieved on 14.10.2019 from: http://www.hellenicpolice.gr (in Greek).
[68] See also Law no. 4620/2019.
[69] See also Law no. 4620/2019.
[70] Pitsela 2013, pp. 340ff.

operate at the Court of Appeal seats (article 11 of Law no. 4109/2013) and belong to the Ministry of Justice. A judicial officer who preferably is or has been a Juvenile Judge or a Juvenile Public Prosecutor should be appointed as President of the Youth Protection Associations' Administrative Council (article 18 of Law no. 2298/1995, as it was amended by article 11 of Law no. 3860/2010).[71]

1.2.2. Are there specialized professionals (specialized police officers, prosecutors, youth judges, social welfare professionals, psychosocial professionals, juvenile probation professionals etc.)?

In Greece, the legislator takes special care and enacts special guarantees for the appointment of **Juvenile Judges** and **Juvenile Public Prosecutors**.

The composition of the Juvenile Courts, as provided for in Article 4 of the Code of the Organization of Courts and the Status of Judicial Officers, is as follows: [a] the single-member Juvenile Court consists of a President of the Court of First Instance at each district court, designated together with a deputy, President of the Court of First Instance or Judge of the Court of First Instance, in accordance with article 26 of the Code of the Organization of Courts and the Status of Judicial Officers, [b] the three-member Juvenile Court consists of the Juvenile Judge (as described above) and two other, younger in terms of service time, if possible, Judges of the Court of First Instance, and, finally [c] the Court of Appeal consists of a Judge of the Court of Appeal or his/her deputy designated in each Court of Appeal according to article 26 of the Code of the Organization of Courts and the Status of Judicial Officers and of two other, younger in terms of service time, if possible, Judges of the Court of Appeal, who are designated as Judges of the Juvenile Court of Appeal by the Judge in charge of directing the Court.[72]

Furthermore, according to article 26 of the Code of the Organization of Courts and the Status of Judicial Officers, one or more Presidents of the Court of First Instance or Judges of the Court of First Instance shall be appointed as Juvenile Judges for the Courts of First Instance for a period of three years by a presidential decree, which shall be issued after the expressed opinion of the Council or of the Judge directing the Court and after the proposal of the Public Prosecutor in the Court of Appeal. The same procedure is followed for the appointment of the Juvenile Judge in the Court of Appeal. In courts where more than twenty judges serve, the juvenile judges are appointed by the plenary of the Court. The attendance of specific training programs organized by the National School of Judges and Prosecutors or the possession of a doctorate or a postgraduate degree in juvenile law are (positively) evaluated for the appointment in the position of the Juvenile Judge or the Juvenile Public Prosecutor.[73]

Concerning Juvenile Investigating Judges, according to article 26 of the Code of the Organization of Courts and the Status of Judicial Officers, one or more Judges of the Court of First Instance are appointed as Investigating Judges at the Courts of First Instance for a period of two years by a presidential decree, which is issued after the expressed opinion of the Council or of the Judge directing the Court and after the proposal of the Public Prosecutor in the Court of Appeal. The same procedure

[71] Pitsela 2013, pp. 350-351.
[72] Code of the Organization of Courts and the Status of Judicial Officers. Retrieved on 5.11.2019 from: http://www.ministryofjustice.gr/site/kodikes/ (in Greek).
[73] Ibid.

is followed for the appointments of the Juvenile Investigating Judge and the Juvenile Judge in the Court of Appeal. Judges with a minimum of five years' service are appointed as Investigating Judges at the Courts of First Instance in Athens, Thessaloniki and Piraeus. In case there are no judges meeting the criterion of the above service time or those who meet the criterion are not enough, the oldest Judges in terms of service time are appointed as investigating judges. In all the other Courts of First Instance, investigating judges are selected and designated among the oldest Judges in the Court of First Instance, if they have not previously served as investigating judges in the same court.[74]

Moreover, according to article 4 of the Code of the Organization of Courts and the Status of Judicial Officers, at the meetings of the civil tribunals, as provided for by the Greek Code of Civil Procedure, the competent Public Prosecutor may be present and he/she shall deliver his/her opinion lastly, unless he/she is a party to the dispute. The competent public prosecutor is obliged to attend the meetings of the criminal courts. A Public Prosecutor or a Deputy Public Prosecutor of the Court of First Instance is always present at the trial in Single Member and Three Member Juvenile Courts. A Deputy Public Prosecutor of the Court of Appeal or his/her deputy is also present at the trial in Juvenile Courts of Appeal. These prosecutors are appointed as Juvenile Public Prosecutors for a term of three years by the person who directs the public prosecutor's office.[75]

According to article 26 of the Code of the Organization of Courts and the Status of Judicial Officers the service of the Juvenile Investigating Judge, the Juvenile Judge and the Juvenile Public Prosecutor may be renewed in the same manner for a further period time of two years for the Investigating Judge or for another three years for the Judge and the Public Prosecutor respectively.[76]

Greek Police personnel must have specialized knowledge and experience in dealing with minors in order to respond to their diverse and demanding role in the performance of their duties both to the State and to the minors. Today, the Juvenile Police Department operates in Piraeus, Thessaloniki, Heraklion and Patras.[77]

According to article 97 of the Presidential Decree 582/1984, police officers provide the Juvenile Judges as well as the institutions or services working for children with all possible assistance so that they can protect and treat minors adequately.[78] Moreover, according to article 3 and article 5 of the Presidential Decree 254/2004, police officers ensure that juveniles are detained separately from adults and they treat minors with sensitivity, understanding and humane, caring to protect them from the damaging effects and dangers to which they may be exposed.[79]

In the case of the **Defense Lawyer** dealing with juvenile delinquents, the law does not foresee the requirement that the Defense Lawyer shall acquire specific knowledge or specialization. In this respect, the general provisions of the Greek Code of Criminal Procedure on the role of the defense counsel throughout the adult criminal procedure also apply to minors. Following the amendment of the relevant articles of Law no. 4620/2019, it is foreseen that the lawyer has the power to represent

[74] Ibid.
[75] Ibid.
[76] Ibid.
[77] Pitsela 2013, pp. 339-340.
[78] Presidential Decree 582/1984. Retrieved on 5.11.2019 from: https://www.e-nomothesia.gr/kat-astynomikos-astynomia/idrysi-leitourgia-uperesion/pd-582-1984.html (in Greek).
[79] Presidential Decree 254/2004. Retrieved on 5.11.2019 from: http://www.astynomia.gr/images/stories/Attachment14238_KOD_FEK_238A_031204.pdf (in Greek).

his/her (minor) client in the procedural acts related to the particular criminal case (article 89), to have unlimited and secret communication with his/her accused client (article 99), to attend with him/her in questioning (article 92) and in his/her defense apology (article 99). Moreover he/she has the right to ask questions and make comments (article 94) and to have access to the case file (article 100). It is worth mentioning that the investigating judge is obliged to appoint a lawyer of his/her own motion in cases of felonies. The same obligation applies to misdemeanors if the accused person explicitly requests that (article 99). Finally, during the main hearing, the Greek Code of Criminal Procedure explicitly foresees that a defense counsel is always appointed by the court if the minor is accused of having committed an offence, which would be characterized as a felony if it was committed by an adult (article 340).[80]

The **Juvenile Probation Service** and, auxiliary, the **Youth Protection Associations** are the main public bodies involved in the treatment of minors who have committed an offense or are at risk of becoming perpetrators or victims of crime. The work of the Juvenile Probation Service is discussed below.[81]

1.2.3 Fill the scheme below in order to systematically describe juvenile justice system in your country

As regards to the juvenile justice system in Greece, the criminal procedure for minor offenders can be described shortly as follows:

Firstly, according to article 242 of the Greek Code of Criminal Procedure the fast-track procedure foreseen for offenders arrested in flagrante delicto is not applied on minors.

Secondly, according to articles 27 and 43 of the Greek Code of Criminal Procedure the Public Prosecutor of the Court of First Instance acts as follows if he/she believes that the report about a crime made by a third person or the accusation made by a person subjected to the offence are founded in law or in its substance and can be assessed by the judicial authorities:

A. If the Public Prosecutor believes that the criminal prosecution is not necessary in order to prevent the minor from re-offending, he/she may decide to refrain from prosecution under the presuppositions of article 46 of the Greek Code of Criminal Procedure. The submission of a social inquiry report by the juvenile probation service is compulsory in this stage of the proceedings.
B. The Public Prosecutor of the Court of First Instance orders the conduct of a preliminary examination according to article 43 of the Greek Code of Criminal Procedure: a) compulsorily for felonies or misdemeanors to be tried by the three member Court of First Instance or the three member Court of Appeal of article 111 Sec. 6 of the Greek Code of Criminal Procedure and b) as a potential in all other cases. The submission of a social inquiry report is not foreseen in this stage of the proceedings.
C. If there are sufficient indications of guilt, the Public Prosecutor of the Court of First Instance initiates the criminal prosecution according to article 43 of the Greek Code of Criminal

[80] See also Law no. 4620/2019.
[81] Pitsela 2013, pp. 340-351.

Procedure in the three following ways: a) he/she brings the case directly to the court hearing for all misdemeanors unless the aforementioned article 43 of the Greek Code of Criminal Procedure about the conduct of a preliminary examination is to be applied, b) he/she orders the conduct of a pre-investigation in the cases of articles 245, 322 and 323 of the Greek Code of Criminal Procedure, in particular when the identity of an unknown offender is revealed and the case file is retracted from the archive (article 245) and when the accused person has lodged an appeal against the direct entry of the case to the audience of the Court of First Instance or the Appeal Court and the Public Prosecutor regards that extra proof material shall be collected (articles 322 and 323), c) he/she orders the conduct of a main investigation in the cases of article 246 of the Greek Code of Criminal Procedure, in particular for felonies and for misdemeanors for which the possibility of imposition of pre-trial detention is foreseen as well as for misdemeanors for which according to his/her judgment the restrictive measures of article 283 of the Greek Code of Criminal Procedure may be imposed. According to article 308 of the Greek Code of Criminal Procedure, in cases of juveniles who are accused of having committed a crime which would be characterized as a felony if it was committed by an adult and for which detention in a young offenders' institution is foreseen as a punishment according to article 127 of the Greek Criminal Code, the Public Prosecutor brings the case before the Judicial Council of the Court of First Instance by submitting his/her proposal and the Council declares the end of the investigation by issuing an order and decides whether the accused person will be brought before trial or not. According to articles 7 and 8 of the Presidential Decree 49/1979, in all cases after the initiation of the criminal prosecution and before the court hearing, the juvenile probation service has the duty to submit a social inquiry report.[82]

1.3 Provide and describe official statistics about juvenile offenders within past 5 years (if not applicable, please provide and argument and explanation)

The Hellenic Statistical Authority (ELSTAT) is the national statistical service of Greece. The purpose of ELSTAT is to produce and announce, on a regular basis, official statistics, among others also about the juvenile delinquency and related issues in Greece. However, the last official statistics were published by the above mentioned public organization in the year 2010. In this respect, we cannot provide and describe official i.e. reliable statistics about juvenile offenders within past 5 years.[83]

[82] See Law no. 4620/2019.

[83] Hellenic Statistical Authority. Retrieved on 4.11.2019 from: http://www.statistics.gr/ (in Greek).

1.4 Description of legal elements and provisions for conducting individual assessment of young offenders in Greece

1.4.1 Which legal documents specify need for assessment and who is responsible for assessing youth offenders?

In the Greek juvenile justice system, the term "individual assessment" is not referred to explicitly in the text of any law on juvenile justice. However, it is foreseen that a social inquiry shall be conducted in various stages of the criminal proceedings so that the child shall be treated in a way that takes into account and respects his/her personality, his/her economic, social and family background and his/her vulnerabilities. The basic aim is to identify the child's special needs so that the most effective measure/sanction can be applied and the child's social reintegration can be achieved.[84]

The social inquiry is conducted by the Juvenile Probation Service (Juvenile Court Aid or the Service of Supervision of Minors). The Juvenile Probation Service constitutes a specialized service, which operates as a regional Department of the Ministry of Justice (Law No. 378/1976, Presidential Decrees nos. 49/1979, 101/2014, 96/2017, 81/2019 and Law no. 4625/2019). Its main mission is to provide assistance and support to the Juvenile Court as well as to the suspects or defendants juveniles. It is exactly the peculiarity of the criminal proceedings against children that calls for the establishment of an "intermediate post" between the child and the Court or the judiciary. This role is played by the juvenile probation officer, who assesses vis-à-vis the personality and the family and social environment of the child, proposes the most suitable measure or sanction/penalty and enables the judicial authorities to decide properly on the child's case. The specific duty of the juvenile probation officers is performed at all stages of the proceedings, such as in the stage of diversion, in the stage of the investigation of the case, before the introduction of the case to the audience of the court as well as after sentencing and during the execution of detention in a young offenders' institution. On this ground, their presence in the closed-door trial is considered to be necessary. It is notable that the relevant provision of article 1 paragraph 1 of Law 3315/1955 does not explicitly establish the obligatory presence of the juvenile probations officers in trial but foresees that apart from the parties to the proceedings, their lawyers and the juvenile probation officers, the parents or the guardians as well as the representatives of the competent Youth Protection Association may be present.[85]

The juvenile probation officers have to conduct a social inquiry report for children in conflict with the law and submit it to the judicial authorities (article 7 of the Presidential Decree 49/1979). The social inquiry works as a tool for collecting data on child's family and social context and as a means for intervention to his/her wider environment. The social inquiry begins for every child from the moment of contact with the Juvenile Probation Service, in order to diagnose the individualized needs of each child, and, if necessary, to have a specific intervention. This intervention is offered both to the child and his/her family.[86]

---

[84] Troianou-Loula, A. (1995). *The Penal Legislation on Juveniles. Texts-Bibliography-Case law-Comments*, Athens-Komotini: Ant. N. Sakkoulas Publications, p. 188 (in Greek); Troianou-Loula, A. (1999). *The Probation Officer's Service of Juvenile Court*, Athens-Komotini: Ant. N. Sakkoulas Publications, pp. 188-189, 192-193 (in Greek).

[85] Pitsela 2013, pp. 340-350.

[86] Association of Juvenile Probation Officers about the Qualitative Features of the Work of Juvenile Probation Services. Retrieved on 20.02.2019 from: http://www.epimelitesanilikon.gr/poiotika.html (in Greek).

Firstly, in the stage of diversion prior to initiation of criminal prosecution, the juvenile probation officers have to submit a social inquiry report when the Juvenile Prosecutor has to decide on the refraining from the prosecution and on the imposition of non-custodial educational measures. Diversion can be applied only when the child commits a misdemeanor. The Juvenile Prosecutor takes into account the social inquiry report so that he/she can conclude whether the prosecution is necessary or not so as to prevent the child from the commission of further criminal acts and whether the imposition of non-custodial educational measures is necessary or not if he/she decides to refrain from the prosecution (article 46 of the Greek Code of Criminal Procedure).[87]

Furthermore, in the stage of the investigation of a child's case after the initiation of criminal prosecution, the juvenile probation officers may be assigned by the investigating authorities to conduct and submit a social inquiry report. The investigation is conducted when the child is accused of having committed a felony. The report has to provide evidence of the child's physical, moral and intellectual development, his/her previous life, his/her family conditions and generally his/her environment. The juvenile probation officers may also contact the child's family members, relatives, teachers or employers so that they can collect useful information about the child's way of living and the social and family conditions. In this way, the Judge and the Prosecutor are enabled to gain knowledge on the child's personality and make proper decisions about the child's case during the criminal proceedings (article 239 of the Greek Code of Criminal Procedure).[88]

According to article 239 of the Greek Code of Criminal Procedure ("Purpose of the Investigation"):

"*1.The purpose of the investigation is to collect the necessary evidence to ascertain the crime and to decide whether a person should be brought to trial. 2. During the investigation, everything that can help in verifying the truth is examined and it is examined and confirmed of its own motion not only the guilt, but also the innocence of the accused, as well as all the elements related to his personality and affect the sentencing. If the accused is a child, a special inquiry about his / her health, moral and mental status, his / her past life, family circumstances and his / her environment in general is conducted. For this purpose, anyone who conducts the investigation assigns the collection of the required information to one of the juvenile probation officers who serve at the local Juvenile Probation Services. The relevant report of the juvenile probation officers is placed in the case file, and the defendant is also aware of it*". [89]

The report used to be confidential and it was not part of the case file. Access was granted to the judicial authorities. Every piece of information that the juvenile probation officers received about the child and his/her environment during the exercise of their duties was strictly confidential and it could be announced to the Juvenile Public Prosecutor, the Juvenile Judge and to the persons who were responsible for the child's care and protection. The juvenile probation officers were not allowed to testify in court and reveal any information about the child and his/her family, which has come to their knowledge due to their profession (article 5 of Law no. 378/1976).[90]

---

[87] See also Law no. 4619/2019.

[88] Papadamakis 2011, pp. 356-359; See also Law no. 4620/2019.

[89] See also Law no. 4620/2019.

[90] Pitsela, A. (2006). *Social Welfare in the Field of Criminal Justice*, 2nd Ed., Athens-Thessaloniki: Sakkoulas Publications, pp. 150-157 (in Greek).

However, according to the amendment of Law no. 4322/2015 (article 9), nowadays the report is part of the criminal file and the accused child or his/her representative have also the right to have access to the report, only in the case of application of the above mentioned article 239 of the Greek Code of Criminal Procedure. The explicit recognition of the child's right to have access to the report constitutes an essential presupposition for the satisfactory and proper exercise of his/her rights of defense in the procedure, as it is stated in the Explanatory Report of Law no. 4322/2015.[91]

According to a decision by the Greek Supreme Court for Civil and Criminal Cases (Areios Pagos, No. 948/2016), which has as its main object the obligation of the court to take into account the essence of the evidence of the report drawn up by juvenile probation officers in the criminal trial of juvenile offenders, it was considered that the juvenile probation officers' report is a special means of evidence for the Juvenile Court and should be explicitly taken into account in the formation of a justice decision. Thus, the Greek Supreme Court emphasizes the special and catalytic role of the juvenile probation officers' report in the criminal proceedings against juvenile suspects and accused persons as the Court acknowledges that the report of the juvenile probation officers is a special and distinct among others documentary evidence.[92]

1.4.2 Have there been any major legislative or policy changes related to IA of children/youth in conflict with the law during the last ten years? If so, which impact have these changes had on the IA process and juvenile justice system?

For many decades the legal framework and the practice of individual assessment in Greece has remained unaltered. Only in the first decades of the 21st century and mainly in the last 10 years, some changes in Greek law and policy in relation to the individual assessment of young delinquents have been introduced. The obligatory submission of the report at the stage of diversion, the explicit recognition of the child's right to have access to the report in the stage of the investigation of his/her case as well as the acknowledgment of the report as a special means of evidence by the Greek Supreme Court are core steps towards the direction of enhancing the importance of children's individualized treatment and thus of promoting their rights within the criminal justice system.

1.4.3 How is your country implementing Directive EU 2016/800 specifically with regards to IA?

The Directive EU 2016/800 has not been incorporated in the Greek legal order so far. Based upon an information given by the General Directorate of Crime Policy of the Greek Ministry of Justice, Transparency and Human Rights, the relevant Draft Law and its Explanatory Report have been submitted to the Minister of Justice, Transparency and Human Rights in 2018 and the Law is expected to be incorporated in the Greek legal order in the time to come.

[91] See also Explanatory Report of Law no. 4322/2015.
[92] Kosmatos, K. (2018). *The Juvenile Probation Officers' Role in the Criminal Trial Against Juveniles*. Retrieved on 28.03.2019 from: https://theartofcrime.gr (in Greek).

2. Describe individual assessment in your country

2.1 What is a theoretical background for assessments of juvenile offenders?

In the Greek legal order, the need for individual assessment of juvenile offenders is theoretically grounded on the principle of "individualized treatment", which prevails in the juvenile justice system. However, the term "individualized treatment" is not referred explicitly in any text of the law on juvenile justice. In particular, the principle means that every child who comes in conflict with the law shall be treated in a way that takes into account his/her personality, his/her special needs, his/her vulnerabilities and his/her concrete family, social and economic background. The primary aim is that all professionals working in the juvenile justice system shall be able to comprehend the special personal and educational needs of each child, the particular circumstances of his/her family status, the individual framework of his/her social, school or working environment so that the experts who come in contact with the child and deal with his/her case shall be in the position to apply the method of treatment, which is regarded to be the most suitable, effective and constructive for each child.[93]

Firstly, the child who has infringed the criminal law shall be given the opportunity to be rehabilitated. The achievement of this goal presupposes that the child is seen as a unique person, which must be encouraged to develop the strong aspects of his/her personality. Thus, there is not only one concrete solution, instead the best treatment for each child depends on different factors and is multidimensional.[94]

Secondly, the child shall learn to undertake responsibility for his/her actions and a treatment based on his/her special needs shall not be interpreted as a pure and total justification of his/her behavior or as a sign of leniency.[95]

On that theoretical basis, the child who commits a crime deserves to have the right to be individually assessed by the appropriate institutions and authorities at all stages of the criminal proceedings, as this enables the imposition of the most appropriate measure or penalty and the avoidance of re-offending in long term.[96] At the end, it is the best way for the justice system and the society to respect, protect and secure the child's best interest.[97]

2.2 What instruments are being used to assess juvenile offenders in your countries?

In Greece, the juvenile probation officer conducts the social inquiry, writes a social inquiry report and submits it to the public prosecutor and judge. In particular, Article 8 of the Presidential Decree 49/1979 defines the conduct of the social inquiry as the collection of information about the juvenile's way of living, about his/her attitude and personality by a direct contact with the juvenile, his/her family members, relatives, teachers or employees.[98]

---

[93] Troianou-Loula 1995, p. 188; Troianou-Loula 1999, pp. 188-189, 192-193.
[94] Ibid.
[95] Ibid.
[96] Ibid.
[97] General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art. 3, para. 1) of the United Nations Committee on the Rights of the Child. Retrieved on 26.09.2019 from: https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf
[98] Troianou-Loula 1995, pp. 186-187.

The term "social inquiry" is likely now to be replaced by the term "psychosocial assessment". Although there is still not a common definition for the term "psychosocial assessment" as this varies depending on the policy, the orientation and the priorities of each institution which assesses, the conclusion is that the term "assessment" entails a process of collection of information about the individual with the purpose of understanding and defining goals and thus of achieving the solution to the individual's problems.[99]

In Greece, the process of assessing the juvenile offender in an individual manner is divided mainly into two sequential phases-stages:

At the first phase, the juvenile probation officer has the duty to conduct the research, the social inquiry. He/she has to detect and collect facts and data and think over them so that he/she can be led to certain diagnostic conclusions as regards to the decisive factors, causes and occasions which contributed to the juvenile's delinquent behavior. Thus, he/she is able to make a decision and propose the imposition of the most suitable measure in any individual case.[100]

In order to achieve his/her goal at this first phase, the juvenile probation officer applies a certain technique. He/she normally invites the juvenile and his/her parents at his/her office and interviews them. He/she can also visit the juvenile and his/her parents at their residence, however such visits take place rarely in practice. The juvenile probation officer can invite the juvenile and his/her parents for more than one meeting-interview as it is important for him/her to comprehend the juvenile's personality and social and family background. During the first meeting the juvenile probation officer explains at the beginning of the conversation his own special role and mission so that the juvenile and/or his/her parents may feel comfortably. Building a bridge of trust with the juvenile is one of the primary challenges in the juvenile probation officer's work. It is also crucial to let the juvenile or his/her parents speak freely, express their views without any interruption or censure. The juvenile probation officer guides indirectly his/her co-speakers so that they reveal all the pieces of information in relation to the juvenile's background. The juvenile probation officer shall not express an opinion on certain family problems or conflicts and he/she shall not criticize the juvenile's attitude or preach him/her. On the whole and according to Article 15 of the Presidential Decree 49/1979 on the Function of the Juvenile probation Services, the juvenile probation officer must show respect and discretion, inspire trust and have in mind the importance of his/her mission.[101]

Furthermore, the juvenile probation officer does not contact only the juvenile's parents but he/she may come in contact with other relatives or professionals at the juvenile's educational or working environment, if he/she believes that the conduct of the interviews is not sufficient for making a full diagnosis. These contacts can be very helpful as they enable the juvenile probation officer to observe directly the conditions, the relations and problems arising in the juvenile's surroundings, which would not be easily revealed by third persons' statements. However, it is notable that if there is not a particular reason and an urgent need, the conduct of the research at school or at the working environment should be avoided so that the juvenile may be protected from potential stigmatization.[102]

---

[99] Koskiniadou, T. (2012). *The Meaning and The Practical Implementation of The social Inquiry or The Psychosocial Assessment* (in Greek). Retrieved on 26.09.2019 from: http://www.epimelitesanilikon.gr/arhtra-theseis.html (in Greek).

[100] Troianou-Loula 1995, p. 187; Troianou-Loula 1999, p. 185.

[101] Troianou-Loula 1995, pp. 188-201; Troianou-Loula 1999, pp. 184-189.

[102] Troianou-Loula 1995, pp. 187-188; Troianou-Loula 1999, pp. 186-188; Koskiniadou 2012.

It should be noted that on the 29th of August 2019 the Law no. 4624/2019 on the protection of personal data and the respect of privacy was enacted in Greece and the relevant legal framework must be taken into account by the juvenile probation officers during the conduct of the social inquiry.[103]

At the second phase, the juvenile probation officer has the duty to write and submit to the judicial authorities the social inquiry report. The report has a predefined structure. However, there is not a common structure of the report conducted by the juvenile probation services in the country. In Thessaloniki, the juvenile probation officers fill in a printed individual sheet of standard "open" questions after they have conducted their research and have collected all the relevant information about the juvenile and they attach a text-report, which includes a description of the basic characteristics of the juvenile's personality, living and family conditions as well as at the end their own conclusive proposal about the proper measure which should be imposed. The proposal must be thoroughly justified and combined with the information and facts derived from the social inquiry so that it can be objective and well-grounded. The proposal is not binding for the judicial authorities, but if the latter agree with the proposal, they impose the proposed measure on the juvenile. In certain serious cases, the judicial authorities and the juvenile probation officers may discuss and exchange their views on the minor's case before the final adjudication taking always into account the child's best interest as they interpret it.[104]

Finally, if the juvenile probation officer concludes that apart from his/her own inquiry there is a need for a psychiatric or psychological examination of the juvenile, he/she undertakes all the necessary measures and makes a request so that such an examination may additionally take place. The relevant conclusion of the psychiatric or psychological assessment is attached to the social inquiry report. The need for a psychiatric assessment may be acknowledged also by the judicial authorities in any stage of the criminal proceedings. In this case and according to Articles 80 and 200 of the Greek Code of Criminal Procedure, the judicial authorities order the relevant experts to express opinion on the juvenile's mental and psychological state.[105]

2.3 Which professions are doing assessments in your countries?

In Greece, the employees of a specialized service, called as Juvenile Probation Service, conduct the social inquiry. Thus, the juvenile probation officers are civil servants who serve in the Juvenile Probation Service and work permanently in the field of juvenile justice as a rule. They may have a differentiated educational background, which means that they have studied either law or psychology or sociology or social work, and they play actually a double role. On the one hand, they cooperate with and provide assistance to the judicial authorities so that the latter may make proper decisions on the juveniles' cases. On the other hand, they have the main responsibility to support, supervise and protect the juvenile offenders in various aspects so that the latter may be successfully integrated into the society. It is notable that the juvenile probation officers are active in the field of combating crime as well as in the field of crime prevention.[106]

---

[103] Law no. 4624/2019. Retrieved on 12.10.2019 from: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=RGmIORriSZE%3d&tabid=534 (in Greek).

[104] Troianou-Loula 1995, p. 189; Koskiniadou 2012.

[105] Troianou-Loula 1995, pp. 187, 189.

[106] Pitsela, A. & Giagkou A. (2013). *Institutions in the Greek legal order promoting the best interest of the child and the principle of education*. In the Book of Essays in honor of Professor Füsun Sokullu-Akinci, Vol. II, pp. 1003-1020.

Bearing all these in mind, the juvenile probation service functions as a connecting link, a "bridge" between juvenile welfare law, social work and law on juvenile justice. As a result, the legal status of the service is not clearly defined. It is neither a pure investigating body nor a sole assistant to the police and the judicial authorities nor a counsel nor a representative of the juvenile. Nevertheless, it is characterized as an investigating body sui generis, because one of its basic tasks is to conduct research and submit a social inquiry report in relation to the juvenile's personality and social living conditions to the authorities at various stages of the criminal proceedings.[107]

The juvenile probation service has a tradition of 40 years since its formal establishment by the enactment of the Presidential Decree 49/1979. Informally, the service used to function long before 1979. Organizationally, the juvenile probation service has been a specialized regional service of the Ministry of Justice (articles 2 and 11 of the Presidential Decree 36/2000 and articles 1, 2, 3 of the Presidential Decree 40/2011).[108] The supervision of each juvenile probation service in each Juvenile Court was assigned to the relevant Juvenile Judge (article 1 of the Presidential Decree 49/1979).[109]

In addition, there has been recently the Social Welfare Probation Service, which has been also subject to the Ministry of Justice and whose main mission is to support and supervise the adults condemned to suspension of their sentence under supervision or the adults condemned to sentence converted to performance of community work or to adults released under conditions. The establishment of the Social Welfare Probation Service was firstly foreseen by Law no. 1941/1991. However, the social welfare probation officers have been performing their duties for 13 years since the enactment of the Presidential Decree 195/2006.[110]

In the year 2014 the Juvenile Probation Service and the Social Welfare Probation Service were merged to one unified service called as Service of Juvenile Probation Officers and Social Welfare Probation Officers under the pressure of the financial crisis in the country. The effective organization and function of the unified service has become part of the General Secretary of Crime Policy's work. In particular, the service is subject to the Department of Delinquency Prevention and Post-Penitentiary Care of the General Directorate of Crime and Penitentiary Policy of the Ministry of Justice. Nowadays the Public Prosecutor in each Juvenile Court supervises the juvenile probations officers' and the social welfare probation officers' work, in particular in regard with the implementation of the educational measures as well as with the execution of penalties (article 26 of the Presidential Decree 101/2014 and articles 14, 15, 17 and 29 of the Presidential Decree 96/2017).[111]

Just recently, on the 8th of July 2019 due to the enactment of the Presidential Decree 81/2019 on the Setting Up, the Merger, the Renaming and the Abolition of Ministries and the Definition of their Competences and the Transfer of Services and Competences among Ministries it was foreseen that the Service of Juvenile Probation Officers and Social Welfare Probation Officers - among other units and departments of the Ministry of Justice – should be subject organizationally to the Ministry of Citizen Protection.[112] However, on the 31st of August 2019 and after the enactment of Law no.

---

[107] Pitsela, A. & Giagkou, A. (2012). *The Juvenile Probation Service in a Greek-German Comparison*. In the Publication edited by Mrs. A. Pitsela, "The Path to Justice: Conference in honor of Prof. Emeritus Stergios Alexiadis", Athens-Thessaloniki: Sakkoulas Publications, pp. 103-135 (104, 109) (in Greek).

[108] Pitsela 2013, pp. 341-342.

[109] Troianou-Loula 1995, pp. 179-181.

[110] Pitsela 2006, pp. 96-99; Anagnostaki, M. (2017). *A Manual for the Juvenile Probation Officers and Social Welfare Probation Officers*. Retrieved on 10.10.2019 from: https://theartofcrime.gr (in Greek).

[111] See also Presidential Decree 96/2017 on Organization of the Ministry of Justice, Transparency and Human Rights, as it abolished Presidential Decree 101/2014.

[112] See also Presidential Decree 81/2019.

4625/2019 on Regulations of the Ministry of Infrastructures and Transports and Other Emergency Provisions, the Service of Juvenile Probation Officers and Social Welfare Probation Officers was excluded from the relevant regulation and thus it remains a service which is subject organizationally to the Ministry of Justice.[113]

2.4 Provide a brief description of the structure and content of the assessment output (opinion/proposal etc.)

According to Article 14 of the Presidential Decree 49/1979 on the Function of Juvenile Probation Services, the social inquiry report conducted by the juvenile probation officers must be complete and illustrative, that means it must contain all the information needed as well as the proposal on the measures that should be taken for the effective confrontation of the juvenile's problems. In Thessaloniki, the report has a predefined structure. It consists of a printed individual sheet of standard "open" questions as well as a descriptive text. The juvenile probation officers have to fill in the individual sheet by answering the questions on the juvenile's personal and family status. The questions on the juvenile's personal data and family background are included at the front page of the sheet. At the next pages there are some questions which are regarded nowadays to be old-fashioned and thus the juvenile probation officers skip them usually. At the back page of the sheet the juvenile probation officers attach a text they have written which includes a brief description of the following information on the juvenile's status: a) composition and background of the family, personal data of the family members, education, the quality of relations among the family members and mostly with the juvenile, b) living conditions of the juvenile, his/her residence and surroundings, c) juvenile's personality and the main features of his/her character, such as physical, intellectual, emotional, moral and social development as well as level of educational attainment, school attendance, professional occupation, other activities and hobbies, d) any event in his/her life that might have strongly influenced him/her and e) circumstances of the offence – however, the juvenile probation officers shall not express opinion on the child's criminal responsibility. Based upon this information, it is important and obligatory for the juvenile probation officers to conclude with the proposal on the most suitable measure for the juvenile's treatment. The proposal must be well-justified and the judge is not obliged to agree with it. However, it is evident that the juvenile probation officers play a significant role by writing the proposal. At the same time, they face though a strong dilemma and certain difficulties when they have to play a double combining role as a sui generis investigative body on the one hand and as a consultant and supporter to the juvenile on the other hand. The main objective is to detect the real needs of the minor and to enable the court to impose the best intervention which will serve the principle of education and the minor's social integration.[114]

2.5 Who is using assessments' results within the criminal procedure (e.g. prosecutors, judges etc.)?

In Greece, the social inquiry report, as it is conducted by the juvenile probation officers, is submitted to und used by the juvenile public prosecutors, the juvenile investigating judges and the

[113] Law no. 4625/2019. Retrieved on 11.10.2019 from: https://www.e-nomothesia.gr/kat-aytokinita/adeies-odegeses/nomos-4625-2019-phek-139a-31-8-2019.html (in Greek).
[114] Troianou-Loula 1995, pp. 200-201; Pitsela 2006, pp. 139-143.

juvenile judges at various stages of the proceedings after the juvenile has come in conflict with the law and has been brought before a judicial authority. That means that the report is used at the stage of diversion before the initiation of the criminal prosecution, at the stage of the investigation of the crime as well as during the main hearing at trial.[115]

According to articles 87 and 88 of the Greek Constitution, the public prosecutors and the judges constitute the judicial power of the country. They participate in the administration of justice and they enjoy functional and personal independence.[116] They possess a law degree and they become prosecutors or judges after succeeding in the entering exams of the National School of Judges and Prosecutors and after participating in the relevant educational and training program of the School. The public prosecutors and the judges attend different educational programs in the School so that they can be specialized in their concrete fields of interest. Among others, they attend basic courses on judicial psychology as well as on selected issues in relation to the protection of minors.[117]

2.6 Is individual assessment performed for the purpose of conducting/executing specific juvenile measures/sanctions? (f.i. helps the judges make proper decision on measures)

Prior to initiation of criminal prosecution, the juvenile public prosecutor must take into consideration the social inquiry report drafted by the juvenile probation officer so that he/she can decide whether he/she shall refrain from prosecution and whether the refraining from prosecution shall be combined with the imposition of one or more of the non-custodial educational measures foreseen in letters a-l of article 122 of the Greek Criminal Code. Thus, the social inquiry report is an important tool which enables the juvenile public prosecutor to make a proper decision on diverting and on imposing the most suitable measure for the juvenile's case (article 46 of the Greek Code of Criminal Procedure).[118]

In the stage of the investigation of a child's case after the initiation of criminal prosecution, the investigating judge may assign the juvenile probation officer to conduct and submit a social inquiry report. The report can be helpful so that the investigating judge can decide at the pre-trial stage and after the accused juvenile has defended him/herself whether she/she shall order restrictive measures, house arrest under electronic supervision or pre-trial detention when there are "serious indications of guilt" against the juvenile. As regards to pre-trial detention, there are strict presuppositions for its imposition described in articles 286 and 287 of the Greek Code of Criminal Procedure. In any case, the juvenile public prosecutor's written assent is mandatory. The main purpose is to prevent the risk of reoffending and to ensure that the juvenile appears before the investigating judge or court and that the judgment is enforced (articles 239, 282, 286, 287 and 288 of the Greek Code of Criminal Procedure).[119]

---

[115] Pitsela 2013, pp. 295-332.

[116] See also the Constitution of Greece.

[117] The National School of Judges and Prosecutors. Retrieved on 01.10.2019 from: http://www.esdi.gr (in Greek); Pitsela 2013, p. 300.

[118] Pitsela 2011, pp. 632-633.

[119] See Law no. 4620/2019; As regards to the previous regulations before the enactment of Law no. 4620/2019 see also: Papadamakis 2011, pp. 356-359.

In Greek law, the principle of subsidiarity of pre-trial detention applies. Pre-trial detention may imposed when the purpose of such detention cannot be achieved by means of restrictive measures or house arrest. Restrictive measures have a precedence over house arrest under electronic supervision, while pre-trial detention is a measure of last resort (article 282 of the Greek Code of Criminal Procedure).[120]

As regards to juveniles, apart from the restrictive measures foreseen for adults the non-custodial educational measures of article 122 of the Greek Criminal Code may be imposed as restrictive measures at the pre-trial stage (article 283 of the Greek Code of Criminal Procedure).[121]

Before the introduction of the case to the audience of the court, the juvenile judge must read and take into account the social inquiry report submitted by the juvenile probation officer. Thus, the judge can form an opinion on the juvenile's personality and family and social background. He/she is not obliged to follow the juvenile probation officer's proposal on the most suitable measure for the juvenile's treatment. Nevertheless, he/she must decide what kind of intervention shall be the most appropriate for each juvenile after trial. Thus, he/she aims to reassure that the fulfillment of the imposed measure or the execution of the sentence to deprivation of liberty can effectively contribute to the juvenile's social integration (article 7 of the Presidential Decree 49/1979).[122]

2.7 Who trains professionals for performing/conducting IA? Do they attend additional trainings and if yes, which ones, are the obligatory for all experts etc.?

The juvenile probation officers who prepare the social inquiry reports are highly educated. The sector is marked by a high level of interdisciplinarity since it is home to professionals from various academic backgrounds with degrees in different subject areas: sociology, law, social anthropology, psychology, social work, philosophy, pedagogics, politics and economics.[123]

As a result, juvenile probation officers have no common educational background and each one joins the sector with their own academic, educational characteristics and tools. No special training is offered for how to conduct the individual assessment. There is no common set of principles setting out the steps to be followed on how to approach minors and so the juvenile probation officers act as they see fit (of course they do so in the context of the Service's guiding principles) but based on their own educational profile and their own system of ethical values.[124]

In Greece there is no school to train juvenile probation officers. According to Law no. 378/1976 and the previous Law no. 3811/1958, the juvenile probation officers were to be selected after a competition in which graduates of the aforementioned disciplines could participate, which was to be

[120] See Law no. 4620/2019; As regards to the previous regulations before the enactment of Law no. 4620/2019 see also: Pitsela 2011, p. 653.
[121] See Law no. 4620/2019; As regards to the previous regulations before the enactment of Law no. 4620/2019 see also: Pitsela 2011, pp. 652-653.
[122] Troianou-Loula 1995, pp. 185-189.
[123] Pykni, M. (2010). *The educational needs of the Juvenile Probation Officers of the Ministry of Justice in the light of the Transformative Learning of J. Mezirow*. In: Criminology: Searching for Answers. Essays in honor of Professor Stergios Alexiadis, A. G. Pitsela (Ed.), Athens-Thessaloniki: Sakkoulas Publications, p. 921 (in Greek).
[124] Pykni 2010, pp. 919, 921.

followed by theoretical and practical training in the form of 2-month seminars prior to being officially appointed. The seminars included theoretical courses, work experience and visits to reform homes, prisons and psychiatric units. Emphasis was placed on law courses. In the mid-1980s the 2-month training was abolished despite the Probation Officers' Association submitting a proposal for the seminars to be extended to 4 months. Moreover, recruitment was no longer done via competitions but by using an online points-based system without any preparation for the candidates. New juvenile probation officers only received a few days of briefings.[125]

It is obvious that there has been a clear and obvious need for more intensive training for juvenile probation officers. Nowadays, newly appointed juvenile probation officers receive no specific training at all. Simply, anyone working in the sector can attend seminars organized by various bodies, which may help them perform their duties better. It is no coincidence that in 2017 the Ministry of Justice issued practical guidelines on the work of juvenile probation officers and social welfare probation officers as part of a technical assistance program to reform the Greek judicial system, run with the assistance of the Austrian organization Neustart. The practical guidelines constitute a useful training tool for professionals in the sector, and consist of three main sections relating to: a) a presentation of the profile and role of such services in Greece, from a theoretical and statutory viewpoint; b) working with minor and adult perpetrators, covering counselling skills, ethical and moral issues, and anger management; and c) work techniques and a detailed presentation of the working methods of probation officers at the Austrian organization Neustart.[126]

Juvenile probation officers are in intense need of training. Based on a research done by *Myrsini Pykni*,[127] the juvenile probation officers themselves acknowledge the importance of training in techniques and methods for properly carrying out interviews so that by approaching minors and their families better, they can suggest more effective interventions. Juvenile probation officers want to be trained so that they can better perform their role and are open to various types of learning, such as experiential learning, continuing professional development courses and supervision.[128]

2.8 Are there research studies about risk/need levels of juvenile offenders in your countries? If yes, what do the results show? Are measures/sanctions matched with risk/needs of juvenile offenders?

In Greece, there are no research studies about risk/need levels of juvenile offenders.

Based upon a conversation we had with the juvenile probation officers who participated in the interviews, following information was given:

In the year 2016 two juvenile probation officers attended the seminar run by the Ministry of Justice in cooperation with the Austrian NEUSTART Agency which provided technical assistance and

[125] Loutsi, Z. (1990). *The Education of Juvenile Probation Officers*. In: Symposium on the Prevention and Confrontation of Juvenile Delinquency (Reeducation-Integration), L. Mpeze (Ed.), Athens-Komotini: Ant. N. Sakkoulas Publications, pp. 463-465 (in Greek); Skarlatou-Dioliousi, R. (1990). *The Education of Juvenile Probation Officers*. In: Symposium on the Prevention and Confrontation of Juvenile Delinquency (Reeducation-Integration), L. Mpeze (Ed.), Athens-Komotini: Ant. N. Sakkoulas Publications, pp. 476-477 (in Greek).

[126] Practical Guidelines on the Work of Juvenile Probation Officers and Social Welfare Probation Officers (2017). Retrieved on 10.10.2019 from: http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=KfhpE7-O-tQ%3D&tabid=577 (in Greek).

[127] Pykni 2010, pp. 915-930.

[128] Pykni 2010, pp. 920, 922-923.

information about how to prepare an individual assessment in Austria (2016-2017). During this seminar a tool for risk assessment was given to the juvenile probation officers. A group of the juvenile probation officers were asked to create a tool for risk assessment for underage and adult offenders in Greece having as guideline the relevant Austrian tool. Although the standards of the tool were quite good, it was not complete as it was not adopted by the Ministry of Justice.[129]

Furthermore, the juvenile probation officers mentioned that in practice when they assess that the juvenile's risk for re-offending is great, they may derogate from the principle of proportionality and they may propose a measure which is stricter and not proportionate to the gravity of the offence committed and to the juvenile's personality and living conditions so as to avoid re-offending. Additionally, they may propose measures which will enable the juvenile to participate in cultural, educational or sports activities.

2.9 Please provide examples of good practice (if any) of IA?

In Greece, each juvenile probation officer may apply good practices while assessing the juvenile. However, an official source describing examples of good practices could not be found.

2.10 If any, please provide any recent reports or recommendations from relevant monitoring bodies (e.g. Committee on the Rights of the Child, Office of the Ombudsman for Children, civil organizations/NGO shadow reports etc) with authority to monitor juvenile justice system/IA of youth in conflict with the law your country.

A specific recommendation on the conduct or the use of individual assessment of juvenile offenders in Greece has not been made by any monitoring body. The United Nations Committee on the Rights of the Child expressed in its "Concluding Observations to the First Periodic Report of Greece" in the year 2002 its concern at the lack of a sufficient number of probation officers in all cities and regions of the country and thus it recommended the increase of the number of trained probation officers and other relevant professionals. The same Committee expressed in its "Concluding Observations to the Second and Third Periodic Report of Greece" in the year 2012 its further concern at the lack of training for professionals working for or with children, including social workers and law enforcement officials and it recommended that the state party shall ensure systematic, mandatory and ongoing training on child rights for all professionals working with and for children.[130]

The Independent Authority of the Child's Ombudsman in Greece proposed in regard with the content of a National Plan of Action for Children's Rights in the year 2015 *firstly* that a sufficient number of juvenile probation officers shall be available at all district courts in the country, *secondly* that adequate support to the juvenile probation service shall be provided, *thirdly* that the independence of the service shall be guaranteed, *fourthly* that the alternative non-custodial

[129] The Austrian NEUSTART Agency. Retrieved on 6.11.2019 from: https://www.neustart.at/at/de/index.php.
[130] Concluding Observations of the United Nations Committee on the Rights of the Child to the First Periodic Report of Greece (2002) as well as to the Second and Third Periodic Report of Greece (2012). Retrieved on 9.10.2019 from: http://www.nchr.gr/index.php/en/reports-by-international-and-european-institutions-for-greece/2013-04-03-11-33-21/un-crc .

educational or therapeutic measures shall be widely applied on juvenile delinquents, *fifthly* that a system of certification, monitoring and reinforcement of all the cooperating institutions which implement the measures shall be developed and *lastly* that certain methodological tools and a further training of all professionals shall be promoted.[131]

3. Results of research interviews with relevant stakeholders

For the purposes of the program, in the period July – October 2019 a total of 6 interviews were conducted with experts (juvenile probation officers) who carry out the individual assessments. One week prior to the interviews the juvenile probation officers were given a concise, short text describing the program. The interviews with all experts, apart from one, were recorded with their consent and before starting the interview the juvenile probation officers signed a document entitled "Informed Consent for Participation in the Program Survey") which partners had earlier adapted to the needs of the program. One expert refused to consent to the recording of the interview so her answers were merely noted down.

To be more specific, 6 (female) juvenile probation officers took part in the interviews, 5 of whom work at the Thessaloniki Juvenile Probation Service[132] and 1 at the Drama Juvenile Probation Service,[133] which has a staff of just 1. The juvenile probation officers who participated come from various academic disciplines: 2 had studied law, 3 had studied social work and 1 had studied psychology. All have many years of professional experience in the sector (ranging from 13 to 23 years).

The two juvenile probation officers who had studied law have acquired specialist knowledge of juvenile law during their undergraduate and postgraduate studies, and are both candidates for PhDs in the field of juvenile law. The other four juvenile probation officers who have studied social work (3) and psychology (1) have received training in the basic use of the interviewing tool in the context of their studies.

All juvenile probation officers have participated in several training courses and seminars but none was specifically focused on individual assessments, and were only indirectly related to the conduct of such assessments. For example, they mentioned the 70-hour seminar run by the Ministry of Justice in cooperation with the Austrian NEUSTART Agency which provided technical assistance and information about how to prepare an individual assessment in Austria (2016-2017), courses about mediation between the young offender and the victim, courses about non-directed interventions, about the Lobrot School[134] as well as seminars at the Thessaloniki psychiatric hospital.

---

[131] Recommendations of the Child's Ombudsman in regard with the content of a National Plan of Action for Children's Rights. Retrieved on 9.10.2019 from: http://www.0-18.gr/gia-megaloys/efarmogi-symbasis-gia-ta-dikaiomata-toy-paidioy (in Greek).

[132] Thessaloniki is a city situated in the Northern Part of Greece and it is the second largest city in Greece after Athens.

[133] Drama is a city also situated in the Northern Part of Greece, about 117 km away from Thessaloniki.

[134] Michel Lobrot was a French psychosociologist and psychotherapist, who founded the Non-Directive Intervention (NDI) as an experiential method of group facilitation. Information about Michel Lobrot. Retrieved on 11.11.2019 from: https://www.vpndi.gr/michel-lobrot/ (in Greek).

According to the juvenile probation officers who took part, the modern regime for individual assessment of suspected or accused children in criminal proceedings in Greece entails carrying out a social inquiry or otherwise writing up their individual or social profile.

The social inquiry includes mainly conducting an interview with the juvenile and his or her family. Initially, the juvenile probation officers explain their own role in the process and try to create a climate of trust so as to achieve the main objective which is to identify the problems the juvenile and his/her family face, which led to delinquent behavior. The survey participants view interviews as the main tool in their work for correctly sketching a profile of the juvenile. Apart from that, the juvenile probation officers may visit the juvenile and his/her family in their residence or they may meet the juvenile's teachers or employers at the school or at the working environment.

The social inquiry is followed by a social inquiry report being drafted. In Thessaloniki and Drama it essentially entails an individual form (which is the same for both agencies) being filled out. It is a pre-printed form that contains questions for the juvenile to answer. Some questions are now considered out-dated and are no longer used. For sure details of the juvenile's identity are filled out and at the end the juvenile probation officer attaches a text to the report describing the juvenile's personality and environment and the text ends with the juvenile probation officer's proposal to the Juvenile Judges and Juvenile Public Prosecutors about how the juvenile is to be dealt with.

There are no specific guidelines or protocol relating to the assessment. There are some basic principles such as the principle of individualized treatment that apply in juvenile law which the juvenile probation officers try to follow. It is interesting that one juvenile probation officer participating in the interviews said that every juvenile probation officer uses his/her own expertise in deciding how to conduct the inquiry, and how to draw out and assess information about the young offender. That is to say the psychologist will assess different aspects, the social worker will focus on different questions and the jurist will raise other issues.

As for the type of assessment in Greece, the juvenile probation officers said that the only type of assessment being carried out is the social inquiry which includes holding an interview and meetings and preparing the social inquiry report. The social inquiry entails identifying, collecting together, recording and assessing the information about the juvenile's personality and social/family/work/educational environment and seeking out the factors that led to the delinquent behavior. There are no other types of assessment or tools in Greece.

The aim of the individual assessment in Greece is, according to the juvenile probation officers who took part, to explore the juvenile's background, his/her personality and environment so that they can select the most suitable form of intervention that corresponds to the juvenile's specific needs and recommend it to the judge or prosecutor. The key objective is to implement the principle of individualized treatment and to safeguard the child's best interests. A key role here, according to most juvenile probation officers, is played by exploring and understanding the family environment, and that is why it is considered vital for the parents to be involved in the process. Moreover, education is considered to be a supporting factor for minors, which was something focused on by two juvenile probation officers. In the end, the selection of the most suitable measure -especially in difficult cases of repeat offenders (one such case being mentioned by one juvenile probation officer by way of example)- is considered critical for effectively addressing the causes that led to the delinquent behavior and curtailing any further delinquency.

All the juvenile probation officers who participated in the interviews agreed that the Juvenile Probation Service is exclusively responsible for conducting the individual assessments on young offenders. When the issue of to what extent the same juvenile probation officer should undertake the

individual assessment of the juvenile in all phases of the process, before and after court, or not, no specific answer emerged, but it was stressed that there are various aspects to this issue which need to be explored. Involving the same juvenile probation officer in the juvenile's case throughout all stages of the process certainly helps build a trusting relationship and allows one to approach the juvenile better and prevents confusion and a piecemeal approach. However, in many cases the so called chemistry between the people involved may not be good and a change may be needed.

Moreover, it was stressed that the juvenile probation officer sector is comprised of professionals from many disciplines and that helps with juvenile probation officers complementing each other, and with communication and cooperation between the various specializations to achieve the best approaches and interventions. One negative factor though is that there are Courts of First Instance where there is no Juvenile Probation Service at all. Thus, one can ask if the juvenile judges and public prosecutors at these Courts issue orders or judgments despite the absence of a social inquiry report.

The work of juvenile probation officers can be assisted by other experts and bodies working with families and children in social or economic difficulties, at risk or neglect, so that through coordinated steps taken by various agencies a rounded approach to the juvenile's case can be taken. According to one juvenile probation officer, the law should mandate a psycho-emotional examination of the juvenile and parents in parallel with the social inquiry.

According to the juvenile probation officers, assessment of the child's personality and maturity, and his/her economic, social and family background and the specific difficulties faced depends on how much each case is individualized. One juvenile probation officer pointed out that the assessment requires one to be involved in each child's case for a reasonable amount of time. The assessment is done by juvenile probation officers normally based on the knowledge and experience they have and above all via contact with the juvenile, the family and other people in the juvenile's environment.

To be more specific, the juvenile probation officers themselves evaluate the juvenile's personality. In Thessaloniki no juvenile probation officer has expertise in psychology. In Drama, the juvenile probation officer has studied psychology and her expertise allows her to have sessions with juveniles to assess their level of intelligence, the degree to which they understand language and comprehend time. If the juvenile probation officers find that the juvenile has health or behavioral problems which need specialized investigation, they can ask for an expert report or for a child psychiatric evaluation using tools or diagnostic tests. One juvenile probation officer mentioned that the assistance of mental health experts may be requested unofficially, who provide advice, guidance and oversight. Almost all juvenile probation officers declared that there are good working relations with such specialists. The juvenile's teachers may also be helpful, and one juvenile probation officer reported that for juveniles with drug use problems, the ANADYSIS treatment program of KETHEA (Therapy Center for Dependent Individuals) has been involved.

As for the child's economic, social and family background, the juvenile probation officers collect information by holding meetings with the juvenile, the family, teachers or employers, other social workers from the Municipality that the family cooperates with, interpreters and the staff at refugee hotspots. The juvenile probation officers also attached importance to the parents being present at the initial examination of the family environment, in order to assess the juvenile's socio-economic situation. One juvenile probation officer mentioned by way of example that there are programs providing financial support and promoting the social integration of children in Thessaloniki, such as the programs run by Entos-Ektos (a Volunteers Association for the Support of Minors and Youth) and by the Youth Protection Associations, the educational scholarships offered by the DELTA IEK Vocational Educational Institute, and the Hellenic Manpower Employment Agency's subsidized vocational training

programs for children aged over 16, though there is a lack of awareness among employers and there are restrictions on the type of work that can be done.

The juvenile probation officers explore the specific difficulties each child has. If a difficulty has not been diagnosed, it needs individualized intervention, which is to say evaluation by child psychologists at diagnostic centers, such as the Education and Counselling Support Centre (ex Differential Diagnosis & Support Centers)[135] or at mental health centers, medical-pedagogic centers and teen units, diagnosis, evaluation and support centers, which are educational services identifying learning difficulties and fostering cooperation between teachers and parents, the MAZI (TOGETHER) charity to support people suffering from depression and mood disorders[136] and day centers to support children and families. The assistance from the child's school teachers in this sector is also important.

The juvenile probation officers referred to various other aspects of the child's life, personality and social surroundings that need to be assessed, such as the child's physical and mental health, communication skills and degree of social integration (relations with others and participation in social activities), drug/alcohol and internet addictions, the child's relationship with the criminal justice sector (past involvement in crimes, repeat offences, pending cases), the child's connection with the crime, and the cultural framework of refugees. One of the juvenile probation officers also stressed the need to organize counselling programs to provide therapeutic interventions, as well as courses on getting ready for work and anger management.

According to the juvenile probation officers who took part in the interviews, the social inquiry report is prepared: a) mandatorily in cases of refraining from prosecution where no criminal charges are pressed after an order issued by the Public Prosecutor (Article 46 of the Greek Code of Criminal Procedure), b) possibly during the main investigation after criminal charges have been pressed, on orders from the investigating judge on imposition (or not) of restrictive measures or house arrest under electronic supervision or pre-trial detention (Article 239 of the Greek Code of Criminal Procedure); c) mandatorily for any child accused after criminal charges have been pressed, after the date of the hearing has been set without any specific order for this being required given the upcoming appearance before a court at first or second instance (Article 7 of Presidential Decree 49/1979, article 29 of Presidential Decree 96/2017); d) in cases where the social inquiry report needs to be updated; e) to provide leave from an educational institution on a trial basis, when the child is implementing the custodial educational measure imposed by a court; and f) for conditional release from an institution for young offenders, where the child is serving the sentence of detention in a young offenders' institution.

In the Greek juvenile justice system, individual assessments are not carried out before criminal charges are pressed. A social inquiry report though does need to be prepared where criminal charges are bypassed under Article 46 of the Greek Code of Criminal Procedure. In practice, the Prosecutor rarely abstains from pressing charges (diversion). However, three juvenile probation officers expressed the clear view that the individual assessment ought to take place as early as possible even before criminal charges are pressed, such as when the child is testifying to the police and will be referred to the judicial authorities so that intervention and assistance can be provided in a timely and effective manner to ensure things run smoothly for the child.

---

[135] The Regulation on the Function, the Duties and the Competences of the Education and Counselling Support Centers (KESY) (2018). Retrieved on 11.11.2019 from: https://www.alfavita.gr/sites/default/files/2018-12/kesy_0.pdf (in Greek).

[136] The MAZI (TOGETHER) charity. Retrieved on 11.11.2019 from: http://mazi.org.gr/ (in Greek).

The juvenile probation officers who participated in the interviews consider that the timing of the individual assessment is neither consistent nor legislatively mandated. The time spent on the assessment depends on the need for individualized treatment of each case, on the child's personality and the family profile and the social environment in general, on the severity of the crime, the child's degree of involvement in it, the assessment of the risk for re-offending and/or any difficulties in assessing the case.

Usually each meeting/session lasts 1 hour minimum and 1 hour 30 minutes maximum. Based on the principle of minimal intervention in cases of very slight crimes, the juvenile probation officers satisfy themselves with a meeting/session to collect the necessary information. On the contrary, in cases of serious crimes or incidents with specific needs and problems, more than one meeting/session is required. In Drama, the juvenile probation officer carries out one to three meetings/sessions. In Thessaloniki, the juvenile probation officers seek to hold repeat meetings with the child and parents together or separately.

When the main investigation is under way, there is usually a period of 1 year before the hearing to conduct the assessment so it is easy to build up a relationship of trust with the juvenile and form a comprehensive picture of the incident. The juvenile probation officer may see the child several times before the hearing. In normal cases, outside the context of the main investigation, the juvenile probation officers have around 1 month before the hearing at their disposal for the assessment; that is considered adequate time for cases tried by the single-member Juvenile Courts.

The juvenile probation officers who participated in the interviews also mentioned that they collect information during their contact with the child and family and any other persons in the child's wider social environment. That is done via meetings at the juvenile probation officer's workplace or on-site investigations, by visiting the areas in which the child moves around. Initially the juvenile probation officers contact the juvenile, the parents and other family members. Because it is important to build trusting relationships, they seek to meet the juvenile on his/her own or with the parents, but sometimes exceptionally they will meet with just the parents. Secondly, the juvenile probation officers come into contact with the teachers, headmaster of the school and/or child's employer, but only if there is an exceptional reason, so as to avoid any stigma. One juvenile probation officer said that it was vital to ensure the confidentiality of the collaboration and to give the child and parents advance notice of the meetings. Moreover, the juvenile probation officers may talk to experts (child psychiatrists, psychologists, social workers) at welfare institutions, hospitals, structures or services provided by the Municipality, if the child has been in contact with and has cooperated with them. In the case of refugees, a meeting is held with representatives of the NGOs. Information may also be provided by the Police, the Prosecutor or another Juvenile Probation Service, if the child has been involved in the criminal justice system in the past. As for the Juvenile Probation Services, a lack of information was noted, due to the lack of a common IT system for processing data at nationwide level.

The responses from the juvenile probation officers show too that the written social inquiry reports do not have any specific structure. The form used is the case sheet but it is not used "as is". Some points are out-dated so the juvenile probation officers adapt it accordingly. Initially they record the child's identity, mention the crime he/she is suspected or accused of, the existence of any co-accused, the time and place at which the crime was committed, then they analyze the family make-up, sketch family relationships and the demographic and socio-economic characteristics of the family, the educational and occupational status as well as health status, and child's and family's level of education, and also describe the child's personality, interests and hobbies. It is important to take into account the conditions that led the child to commit the crime and in particular the child's attitude to and connection with the crime. Under no circumstances do the juvenile probation officers take a

position on whether or not the child has committed the offence. The presumption of innocence is to be respected. The juvenile probation officers are interested in whether the child is ready to take responsibility for his/her actions as part of the process of growing up. In the end, they assess the types of interventions available and propose how the child should be treated by the court.

The juvenile probation officers who took part in the interviews stressed that the social inquiry reports are confidential. They are stored separately at the Juvenile Probation Service's offices and no one else has access. The report is intended only for the bench. That is to say only the juvenile judge and the public prosecutor take cognizance of it, although formally there is no provision allowing the prosecutor to see it but the juvenile probation officers tacitly accept the practice. Key aspects of the report may sometimes be discussed or expounded upon, if there is a need to stress them to the court, but always bearing in mind the child's interests.

Exceptionally, the report can form part of the case file when the investigating judge orders that a social inquiry shall be conducted under Article 239 of the Greek Code of Criminal Procedure. Most juvenile probation officers expressed their concerns and reservations about this provision. The other side or the lawyer may use the report to make the task of the juvenile probation officers more difficult, primarily in terms of securing the child's trust. So that the trust-based relationship is not affected, the juvenile probation officers are careful in what they write and the reports in such cases are more standardized or the juvenile probation officers inform the child in advance about the content of the report.

The key criterion in updating a social inquiry report, which all juvenile probation officers mentioned, was a change in the juvenile's circumstances and living conditions and the elapse of a reasonable period of time between the first and next assessment. Usually, the overall case sheet does not change and instead the juvenile probation officers prepares a supplementary one. The main body remains, but the new circumstances are stated, such as a death, divorce, or a break in schooling.

The report is updated: a) when the juvenile is actively involved in the criminal justice system, i.e. when charged with a crime and then charged with a second crime and a reasonable time has elapsed (say 3 months or more; if less than a month has elapsed the report is updated if the second crime the juvenile is accused of is more serious than the first one); b) when the investigating judge during a criminal investigation imposes care and supervision as a restrictive measure and the juvenile probation officers have to collaborate with the juvenile on a regular basis; c) when the hearing date is adjourned by the court to collect evidence and a reasonable period of time elapses, say 4 months or more (one juvenile probation officer said that if a month elapses some new circumstances may be mentioned orally, otherwise if the period is more than 1 month a supplementary report is prepared, whereas another juvenile probation officer pointed out that adjournment is given in serious cases, otherwise there may be a simple suspension of the proceedings, or the order of the cases on the docket re-arranged to that the interview can be conducted there and then); d) when an appeal is filed with the Court of Appeal against the judgment of a single or three-member Juvenile Court of First Instance; e) when the issue of imposing or replacing the educational measure imposed in accordance with Article 124 of the Greek Criminal Code must be examined; and g) when after the court proceedings the educational measure of care and supervision is imposed and enforced and the juvenile probation officers have to cooperate with the juvenile on a regular (usually monthly) basis but always depending on the substance and special nature of the case.

All the juvenile probation officers who participated in the interviews accepted that the Juvenile Probation Service faces difficulties in effectively conducting the individual assessments for young offenders. In the view of one juvenile probation officer, the rate of involvement of minors in crime

overall is low and relatively stable. However, she considered it vital for there to be improvements to successfully respond to new emerging challenges such as the increase in crimes of violence and the rise in cases involving refugee children.

The difficulties in the work of the Juvenile Probation Service pointed out by the juvenile probation officers who participated in the survey related to: a) lack of a single regulatory framework for how social inquiries are to be conducted, the lack of a certified objective assessment tool for the character and personality of minors and of the risk of repeat offences; b) the difficulty of sometimes tracing the child and family, despite the assistance of other bodies, or even the unwillingness of the parents and children to cooperate with the Juvenile Probation Service; c) the prevalence of poor working conditions in Thessaloniki at least, such as pressure and insufficient time, the presence of many juvenile probation officers in a single place that is not child-friendly, the use of a single computer, the absence of a secretary and the fact that juvenile probation officers take on secretarial duties; d) the existence of a confusing legal framework about how assessment is supervised (initially supervision was to be provided by the Juvenile Judge but now it is done by the head of the Court of First Instance Public Prosecutor's Office according to article 29 of the Presidential Decree 96/2017) e) the absence of a social policy on networking of agencies and structures to achieve better co-operation; f) the lack of a wide ranging intervention program designed to meet the needs of the assessment; g) the lack of interpreters in cases involving young refugees or the lack of training juvenile probation officers have in cultural mediation despite the existence of an interpreter.

In light of all those difficulties, the juvenile probation officers stressed the need to adopt a single set of guidelines, a regulatory framework and/or a tool for approaching and assessing minors and also stressed the need for parallel training and education of juvenile probation officers about the new framework or tool, especially in relation to timely social issues. To be more specific, one juvenile probation officer proposed a semi-structured interview based on themes to be explored (though not necessarily absolutely specific) which would follow common guidelines. The effectiveness of assessment is ensured when newly appointed juvenile probation officers receive induction training and the older ones undergo life-long learning. The obligation to carry out individual assessments must be enacted in law and supervision of cases must be placed under the guidance of experts, and specialist structures and services. The objective must be to enrich the network of collaborations with other bodies and improve co-operation. It is also important to exchange knowledge about how best practices are being implemented, primarily via participation in European research programs.

In short, the Juvenile Probation Service's needs in terms of individual assessments can be summarized in three phrases: education, support and statutory enshrinement.

Furthermore, a total of 6 interviews were conducted for the purposes of the program with experts using the social inquiry report prepared by Juvenile Probation Officers. Specifically, 3 interviews were conducted with juvenile judges and 3 with juvenile public prosecutors over the period July-September 2019. One week prior to the interviews the judges and prosecutors were given a concise, short text describing the program. All expert interviews were taped with their consent and participating judges and prosecutors signed a form before interviews began titled "Informed Consent for Participation in the Program Survey", which partners had earlier adapted to the needs of the program.

The judges and prosecutors taking part in the study are women (just like the juvenile probation officers). The majority have professional experience through their involvement with young offenders varying from 4 to 6 years. In one case, one participant (a juvenile judge) had just 1 year of experience, while in another case (a juvenile public prosecutor), experience was 13 years.

All judges and prosecutors participating in the study stated they had not acquired special knowledge in (criminal) law related to juveniles while attending the School of Judges and Prosecutors, as the curriculum of the particular school does not include a special course on juvenile law. In this respect, the theoretical knowledge of the sample is limited to that acquired during their university studies. Almost all participants (except one, though this does not imply a negative response) stated they have taken part in training seminars and other workshops on young offenders (prevention and suppression, vulnerable youth groups, child victims, abuse of minors, link between sexual abuse and animal abuse, child abduction, and others). None of these, however, was related to the individual assessment and its use during the course of performing their duties. In only one case, the participant (a juvenile public prosecutor) stated that she may have taken part in a seminar on young offenders as well as perhaps on individual assessments, specifically on the social inquiry conducted by Juvenile Probation Officers. However, as a significant period of time had elapsed since attending it, she was unable to provide a reasonably certain (positive) response about the latter. Finally, it should be noted that in the case of two participants (juvenile public prosecutors), they stated they were holders of a post-graduate degree in "Criminal Law - Criminology". From this aspect, we can safely conclude that experience in individual assessment was acquired during the course of their work with young offenders as part of the juvenile justice system.

As regards to the current status of individual assessment of children who are suspects or accused in criminal proceedings in Greece, all survey participants highlighted the key role played by Juvenile Probation Officers, particularly the Juvenile Probation Service (which is governed by Presidential Decree 46/1979), in the process of conducting individual assessments and specifically in the social inquiry report prepared and submitted to the competent Juvenile Court. The exclusive involvement of Juvenile Probation Officers in the critical issue of individual assessment was particularly stressed. The potential for others assisting in their work was also mentioned, such as when a certain issue emerges that requires specific scientific training; for example, in the event of an issue of a psychiatric nature. In such case, a specialist psychiatrist or psychotherapist also contributes to preparing the individual assessment. In all events, however, as most participants in the survey noted, Juvenile Probation Officers monitor the juveniles after some measure is imposed as well.

Further, the participants stated that they are made aware of the Juvenile Probation Officers' social inquiry reports and can therefore consult them once the court date has been set. The existence of a social inquiry report is essential when hearing the case, given that the trial is adjourned in the absence of such a report.

In addition, the majority of the participants stated that the individual assessment is made after criminal proceedings are initiated against a child, even in lesser or less severe offences, such as violations of the Highway Code. Article 46 of the Greek Code of Criminal Procedure, which refers to the important institution of refraining from criminal prosecution (diversion), provides that a social inquiry must be conducted by Juvenile Probation Officers and a report prepared in advance. There was, however, disagreement amongst study participants on whether this legislative provision is enforced in practice. In the case of one participant in the study (a public prosecutor), it was mentioned that the provision is strictly enforced while another participant (a juvenile judge) categorically stated that Article 46 of the Greek Code of Criminal Procedure is not enforced in practice; however, she also expressed the hope that it will begin to be enforced with the recent amendment of the Greek Code of Criminal Procedure.

Finally, the fact that certain participants reported the complete absence of Juvenile Probation Officers at certain First Instance courts in Greece was a negative aspect. This essentially means the

invalidation of attempts to prepare individual assessments in criminal procedures in certain areas of Greece where the criminal procedure is completed without conducting one.

As to the types of current forms of assessment corresponding to the individual assessment, all participating juvenile judges and prosecutors told us that an example of such an assessment is the social inquiry and related report prepared by Juvenile Probation Officers (the "case sheet"), which includes (at the end) a proposal for the appropriate criminal handling of the young offender. Additionally, most participants mentioned the existence of municipal social worker reports, which are prepared as part of investigating the suitability of children's living conditions, or psychiatric reports, which had been prepared at an earlier time and which are also taken into consideration by Juvenile Probation Officers and refer to them in their own social inquiry report as background. The report by the Juvenile Probation Officers is revised and updated both in the event a sufficient period of time has elapsed since it was first written and in cases where the hearing has been postponed. It is taken into account by the Juvenile Court before the case is heard and court proceedings commence.

As to the manner in which the existing assessment meets the goal set in the recitals of Directive (EU) 2016/800 (recital 35) regarding the need and extent of special measures during criminal proceedings, all participants in the study responded positively, given that the Juvenile Probation Officers' assessment reports always contain a proposal for taking educational or therapeutic measures most appropriate to each case and for the duration of such measures, when they believe such measures are necessary. In this light, according to the judges and prosecutors taking part in the study, the existing assessment does meet the aforementioned goal set by Directive (EU) 2016/800. It should be noted, however, that at this point in the interview, the participants in some cases (juvenile judges, juvenile public prosecutors) stressed that the contribution of Juvenile Probation Officers should be limited to this action, i.e. to recommending the measure most appropriate to the young offender, without going so far as to make a determination on whether the minor committed the crime; in other words, expressing an opinion on whether the minor is guilty or not.

With regard to how the existing assessment corresponds to the goal set in the recitals of Directive (EU) 2016/800 (Recital 35) on determining the extent of the child's criminal responsibility, experts participating in the study who use the assessment stated that it does not correspond to this goal and that this is the task of the Juvenile Court and not the Juvenile Probation Officers. This was because, in the opinion of almost all of the judges and prosecutors taking part in the study, it leaves no room - and correctly so - for Juvenile Probation Officers who conduct the individual assessment to broach issues of guilt or innocence of the minor, as that does not lie within the competence of Juvenile Probation Officers. The social inquiry report, as one juvenile judge mentioned, contains the juvenile's views on the crime, on one hand, but does not constitute a platform for the juvenile to answer for his or her actions. It was mentioned only in one case (a public prosecutor) that the juvenile's criminal responsibility is probably also assessed, though in this case the respondent did not fully agree with the Juvenile Probation Officer's taking a position for or against guilt. Another expert (a juvenile judge) also said that when this happens, though it rarely does, it is not taken into consideration by the Court in formulating a judgment.

With regard to the way in which the existing assessment addresses the goal set in the recitals of Directive (EU) 2016/800 (recital 35) on determining the appropriateness of a particular punitive or educative measure, survey participants almost universally responded positively. In addition, judges and prosecutors responded completely positively as to the quality of the work performed by Juvenile Probation Officers in relation to the specific issue, saying that a pertinent proposal is always included in the report they submit and that this proposal, in most of the cases they have handled themselves, is always on point and correctly indicated as to the measure to be applied to the juvenile and is

followed by Juvenile Court, though it is not binding on the Court. In only one case in which some doubts were raised as to this response (a juvenile judge), mention was made of the possibility which exists and is followed in practice, specifically during the hearing procedure, that once the juvenile has been examined and the procedure is completed, the judge may speak with the responsible Juvenile Probation Officer, who is present throughout the procedure, in person and discuss the reasons why the Juvenile Probation Officer proposed a particular measure. The assessment may be changed and other measures may be proposed because new evidence has come to light during the hearing of the case which had not previously been taken into account by the Juvenile Probation Officer.

The picture which emerged from the interviews about the Juvenile Probation Officers covering the assessment requirements during his/her work on the minor's personality and maturity, economic/social/family background and any specific difficulties he/she faces (Article 7(2) of Directive (EU) 2016/800) was also encouraging. The participants in the survey stressed that the reports Juvenile Probation Officer's submit to the juvenile courts are complete in terms of all the above topics, which is to say they constitute a clear, well-documented and well-reasoned description of those points. That was attributed (by a juvenile judge) clearly to the climate of cooperation, trust and sense of security the Juvenile Probation Officers manage to build up in their contacts with the young offenders. Only one person (a public prosecutor) mentioned that quite by way of exception to the rule the court asked for a social inquiry report from a Juvenile Probation Officer to be supplemented because it was incomplete.

The expert juvenile judges and prosecutors who participated in the survey showcased through their answers the diversity of topics that the individual assessment report has to include in order for it to be useful and make it easier for a proper opinion about the young offender to be formed. More specifically, they referred to the need for a precise description of his/her living conditions (personal, family, school and wider social setting), the need for an individualized approach to the juvenile's requirements and personality, the existence of a family environment supportive of the juvenile, particularly after any imposition of measures on him/her, relations with parents and the whole family, the family's educational level and that of the juvenile him/herself, the family's employment situation and that of the juvenile him/herself, his/her state of health, and the need to identify and record any special features the juvenile may have. In all events it was stressed by the participants that the individual assessments, as done today, are adequate and help in the appropriate measures for the juvenile being chosen.

As for the stage in the criminal procedure at which the individual assessments start to be prepared, all judges and prosecutors who participated in the survey placed it in all cases after criminal charges had been pressed. That is also bolstered by the fact that as one participant in the survey (a juvenile judge) pointed out, Article 46 of the Greek Code of Criminal Procedure is not implemented in practice. However, the majority of participants stated that contact with the juvenile to prepare the social inquiry report had to be done as early on as possible ("as quickly as possible") and well before the hearing ("as immediately as possible"), so that there is sufficient time to investigate each case in depth. Of course, as one participant in our survey (a public prosecutor) said, that issue has to do with the seriousness of the crime the juvenile is accused of.

It should also be mentioned that in the view of two participants (a juvenile judge and a prosecutor) it would be advisable to carry out the individual assessment even before criminal charges are pressed. In that view, the individual assessment should be carried out immediately with the police officers' knowledge, who should contact the Juvenile Probation Service immediately (juvenile public prosecutor). However, the other participants explicitly stated that they find this difficult due mainly to

the workload of juvenile probation officers (a juvenile judge and a prosecutor) but also to the under-staffing and lack of staff at police departments specialized in handling minors (a public prosecutor).

All participants in the survey reported that the Juvenile Probation Officers (and the Juvenile Probation Service in particular) were responsible for starting and carrying out the individual assessment. Moreover, one participant in the survey (juvenile judge) said that the Juvenile Probation Service is responsible for arranging the individual assessments but the Prosecutor supervises the Service and so too the individual assessment. Lastly, proposals were made to the effect that it would be a good idea for supervision of the process to lie with a juvenile judge (proposal from a juvenile judge) or a juvenile public prosecutor (proposal from two public prosecutors).

Judges and prosecutors who participated in the survey were of the belief that the duration of the individual assessment depends on the severity (gravity) of the crime the juvenile is suspected or accused of and on the juvenile's willingness to cooperate with the Juvenile Probation Officer. From that viewpoint, the interviews with judges and prosecutors make it clear that it can be completed in one to two days but may require long-term cooperation with the juvenile to complete it. All participants said that it is an issue which experts carrying out the process (i.e. the Juvenile Probation Officers) know about. In addition, one participant (a juvenile public prosecutor) added that one criterion determining length is the stage in which the Juvenile Probation Officer becomes involved in carrying out the individual assessment, such as during the pre-trial stage, when there is ample time to effectively and systematically engage in the assessment or during the main investigation. One participant (a juvenile judge) said she did not believe that it would take very long due to the work load and lack of sufficient time available to Juvenile Probation Officers, and that was so despite the remarkable efforts made by the latter, some of whom even work overtime. Cases were also mentioned where minors with their families do not turn up for pre-arranged meetings with the Juvenile Probation Officers to conduct the social inquiry (a juvenile judge). Lastly, all participants in the survey stated that a reasonable amount of time is needed in each case to properly and effectively carry out the individual assessment, the existence of which will help the court choose the right measures for the juvenile.

As for the structure of the written individual assessment report, all participating juvenile judges and prosecutors mentioned the printed form provided by the Ministry of Justice to the Juvenile Probation Services to record the juvenile's individual assessment. The participants said it was a form of several pages which included the details of the juvenile, his/her date of birth, his/her family's details (parents, siblings, etc.), the family situation and economic situation, the living conditions, the parent's occupation and educational level, the juvenile's own educational level, any health problems, any narcotics use or any involvement in other criminal offences, or part imposition of other educational measures. It also records information such as how cooperative members of the family and the juvenile him/herself was, contacts with the school (if the Juvenile Probation Officer has any), performance at school and any job. Moreover, it records the juvenile's attitude towards the crime he/she is accused of, what the Juvenile Probation Officer has to say about that, what picture the Juvenile Probation Officer formed about the juvenile. The form is also used to record the Juvenile Probation Officer's proposal. The judges and prosecutors who participated were of the view that is not a functional tool (referring to an "obsolete tool", "out-dated questions", "out-dated text", "out-dated and useless fields") which needed to be immediately replaced by a modern, usable form. In all events, though, as is clear from the responses from participants, even by using that specific form the Juvenile Probation Officers' reports are mostly complete.

As for the issue of confidentiality, all participants with one exception said that the form is completely confidential, in the sense that the contents of the report set out in the form are only made known to the Prosecutor and the Juvenile Judge, and are not included in the case file but in a separate

dossier, and the content thereof is not mentioned in the judgment given by the Court. According to participants in the study (juvenile judges) that aspect of confidentiality ensures that the relationship and climate of trust built up between the Juvenile Probation Officer and the juvenile can remain undisturbed, given the potential continuation of their cooperation even after the judgment is issued and measures are imposed. In one case only a juvenile public prosecutor mentioned that the Juvenile Probation Service reports are included in the criminal case file and the juvenile (but not any third party) can take cognizance of their contents.

It should be noted that as far as Article 239 of the Greek Code of Criminal Procedure is concerned, one participant in the survey (a juvenile judge) said that the report is confidential in any event, but another juvenile judge said that the relevant provision is not implemented and another participant (a public prosecutor) said she knew nothing of the matter.

According to the juvenile public prosecutors and juvenile judges in the survey sample, reasons for updating the individual assessment include the elapse of a sufficient period of time from the previous assessment, adjournment of the case to another hearing date, the hearing of the case at appellate level and the juvenile's involvement again in the criminal justice system for another crime. They also mentioned that reasons for updating the report can include various other important events in the life of the juvenile such as the death of a parent (a juvenile judge) or the educational measure being implemented (a juvenile judge). Only one participant (a public prosecutor) mentioned that in her experience, Juvenile Probation Officer reports are rarely updated though in her view that should be done when cases are adjourned or when educational measures are implemented, to check to what extent the relevant decisions are being implemented in relation to the juvenile and whether it is possible to replace that measure and impose another one. Lastly, the above-mentioned reasons for updating the report aside, no other reason was given by the survey sample for updating the individual assessment.

Adjourning hearing of the case was unanimously viewed by all juvenile judges and prosecutors who participated in the survey as a way to deal with cases where the individual assessment report was missing, which is something they considered essential to have. Two participants (juvenile judges) also mentioned the possibility of suspending the proceedings, while one judge mentioned the idea of adjusting the order of cases in the docket (namely an adjournment in the case for a few hours) to provide the Juvenile Probation Officer time to conduct an inquiry and individual assessment on the same day, and then for both to return to court to complete the hearing, though one participant (a juvenile public prosecutor) was of the view that the option of suspending proceedings would not result in an effective, proper individual assessment by the Juvenile Probation Officers. One expert (a juvenile judge) said that if the juvenile is absent and it has not been possible to find him/her, that could be a reason for not adjourning, even though the individual assessment is missing, and for the court to go ahead and try the case in his/her absence.

As for the main difficulties in effectively carrying out the individual assessment and using it, the juvenile judges and prosecutors who participated mentioned above all the lack of cooperation from juveniles and their families, when they do not turn up consistently for their appointments with the Juvenile Probation Officers for the social inquiry ("they don't turn up", "they are not willing to respond to the Juvenile Probation Officers invitation"). That problem exists among the Roma and refugees who do not have a fixed place of abode, making it virtually impossible to locate them (a juvenile judge). Another difficulty mentioned was the lack of a modern assessment tool, "an inquiry protocol" as one participant in the survey called it (a public prosecutor) and in particular one that is modern in terms of its content and structure (a juvenile judge and a prosecutor), especially in light of the response to another question where it was mentioned that the current form and its structure was viewed by the

sample as out-dated and anachronistic. Another problem that was mentioned (by a juvenile judge and a prosecutor) was the problem which has arisen frequently and intensely in recent years in Greece with interpreting: the lack of interpreters and the problem with paying their fee for the very important services they offer, which one public prosecutor said was addressed with interpreters provided by NGOs. Mention was also made of the under-staffing of the Juvenile Probation Services as well as the utter lack of Juvenile Probation Officers at some first instance courts in Greece, the lack of adequate oversight of the specific Services and the lack of suitable staff with specialist knowledge (a public prosecutor).

As for challenges and suggestions for improvement aimed at effectively carrying out individual assessments and using them properly, mention was made of: setting up and using a modern individual assessment tool (a juvenile judge); including psychologists in the team of Juvenile Probation Officers carrying out the assessment (a juvenile judge); close collaboration between all bodies and services involved in juvenile crime along with the Juvenile Probation Services which assist it in its work (a juvenile judge), and even online interconnection between those bodies (a public prosecutor); as well as the stage when the individual assessment is commenced, which is to say in as early a stage as possible; and coverage of the expenses needed for it, such as on-site inspections of the juvenile's school and work environment (a public prosecutor). One participant (a public prosecutor) proposed that a distinction shall be drawn between a Juvenile Probation Officer who carries out an individual assessment before the case is heard and the Juvenile Probation Officer who takes on the juvenile after a measure is imposed by a Juvenile Court.

In all events, although not expressly mentioned by the participants, one can conclude that the juvenile judges and prosecutors who participated in the study view these difficulties as challenges and their words can be seen as recommendations for improvements about how to more effective carrying out individual assessments and make use of them.

Based on the experience of the juvenile judges and prosecutors who participated in the survey, juveniles' offences of lesser importance and severity, such as violations of the Highway Code, allow for derogations from the mandated individual assessment process. In all other cases it was mentioned that that option is not available (a juvenile judge) due to the mandatory nature of the inquiry. In the view of one of the participants (a juvenile judge) it would be a good idea to carry out the individual assessment even for those crimes of lesser importance and severity. Lastly, one public prosecutor mentioned that derogations are appropriate in the case of foreign minors when the latter have left our country or have been deported and consequently the social inquiry cannot be carried out by the Juvenile Probation Officers.

Finally, it should be stressed that all juvenile judges and prosecutors who participated in the survey emphasized the need for an individual assessment to be carried out by Juvenile Probation Officers in a holistic, cooperative, substantive manner based on modern scientific guidelines to ensure rational, effective handling of juvenile delinquency.

4. Conclusions and recommendations

In Greece, the respect of the child's best interest and well-being and the promotion of the child's education and rehabilitation have been indisputably the prevailing and most traditional principles of the juvenile justice system. In recent times, the Greek juvenile law has been harmonized to a great degree with international human rights law instruments and as a result a more human, child-sensitive

and child-friendly legal framework for the treatment of underage offenders in the Greek society has been created.

Subsequently, an important principle which is explicitly stressed in the international human rights standards and which functions as a guideline for all professionals working in the Greek juvenile justice system is the need for the individualized treatment of young delinquents.

The principle of individualized treatment is fulfilled in Greece in the following way: The juvenile probation officers have the task to conduct a social inquiry and collect information on the child's personal, family, educational and social background, write a report and propose a suitable measure or sanction and submit the report to the judicial authorities at various stages of the criminal proceedings so that the latter can choose the most effective and constructive treatment for each child.

In Greece, the legal framework on individual assessment of young offenders is quite old and remains unaltered. Surely major changes are expected to be introduced after the incorporation of the EU Directive 2016/800 in the Greek legal order. The legislative changes can have a positive impact on the practice of individual assessment as well.

Nowadays, the social inquiry aims at detecting the specific needs of children concerning protection, education, training and social integration. The juvenile probation officers assess the child's personality and maturity, the child's economic, social and family background and any specific vulnerabilities, while if it is necessary they can request assistance by experts of other institutions, such as psychologists, psychiatrists and social workers. The juvenile public prosecutors, the juvenile investigating judges and the juvenile judges make use of the social inquiry report at various stages of the proceedings and they are able to form an opinion on the juvenile's personality and background and thus impose the most suitable measure or sanction after taking into consideration the juvenile probation officers' proposal. During the conduct of the social inquiry the child and his/her parents are closely involved and the juvenile probation officers are regarded to be the most qualified personnel for the conduct of the social inquiry, while they are also ready to apply a multidisciplinary approach at their work. The social inquiry is conducted at the stage of refraining from prosecution (diversion) as well as after the initiation of the criminal prosecution and in the absence of the social inquiry report the trial is adjourned as a rule. The social inquiry report is regularly updated when the facts of the case change. A derogation from the obligation to conduct the social inquiry is possible under certain circumstances, for instance in cases of non-serious offences or when the foreign minor has left the country or has been deported.

In practice, many difficulties arise. The absence of a certain tool for the conduct of the social inquiry, the limited number of probation officers and their insufficient training as well as the lack of specialized knowledge by the juvenile public prosecutors and the judges seem to be the most time-consuming problems which affect negatively the quality and effectiveness of their work and render juvenile justice incomplete.[137]

To address these problems, it is proposed *de lege ferenda: firstly* that a modern scientific tool for the conduct of the social inquiry shall be introduced, *secondly* that the juvenile probation service shall be staffed by an adequate number of qualified personnel which shall be continuously trained and specialized and *thirdly* that juvenile prosecutors, juvenile investigators and juvenile judges at least in the major cities shall deal exclusively with juvenile cases, their term of office shall be renewed for many

[137] Pitsela 2013, p. 300.

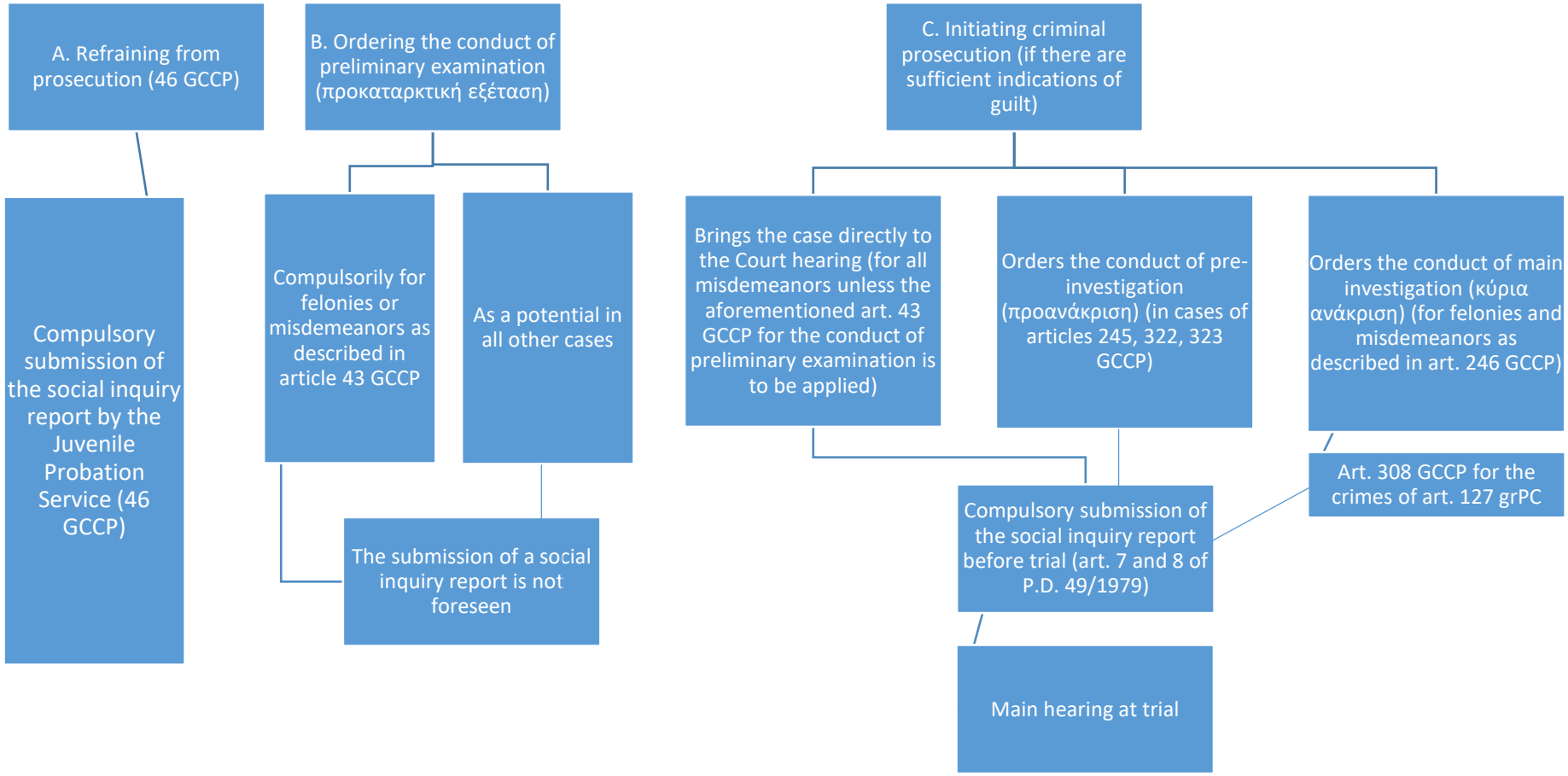
years with their consent and their professional development and career prospect in the juvenile justice system shall be envisaged.[138]

As a conclusion, the professionals who conduct or use the social inquiry in the juvenile justice system in Greece face many challenges. The multifaceted support in their work is of high importance. At the end, enabling all the professionals to assess the juveniles in an effective and constructive way reassures that the principles of the child's best interest and well-being, his/her education and social integration are served to the greatest extent.

[138] Pitsela 2013, pp. 659-660.

CRIMINAL PROCEDURE FOR MINOR OFFENDERS

- The fast-track procedure for offenders arrested in flagrante delicto is not applied on minors (242 GCCP)
- The Public Prosecutor of the Court of first instance acts as follows is he/she believes that the report about a crime made by a third person or the accusation made by a person subjected to the offence are founded in law or in substance and can be assessed by the judicial authorities (27 and 43 GCCP)



Procedural safeguards of accused or suspected children: improving the implementation of the right to individual assessment

IA-CHILD

JUSTICE PROGRAMME, JUST-AG-2017/JUST-JACC-AG-2017

NATIONAL REPORT

CYPRUS

Authors of the Report:

Christine Mavrou
Coordinator of the Rights and Fundamental Rights Unit
'Hope For Children' CRC Policy Center
Cyprus

2019
Cyprus

Contents

Juvenile Justice System and Legal Regulation of Individual Assessment

Legal background and regulation of juvenile justice system in Cyprus

The national report on Cyprus was prepared within the framework of the European Commission – Justice and Consumers (Ref. JUST-AG-2017/JUST-JACC-AG-2017/802059), which funded the project *I/A CHILD: Procedural Safeguards of accused or suspected children: Improving the implementation of the Right of Individual Assessment*, in order to examine individual assessment in the country's context.

The project seeks to increase the knowledge on different models of Individual Assessment (IA) based on the analysis of national, EU and international legal regulation, relevant scientific, practical literature, statistical data, models applied and experts' interviews. The expected results focus on the better protection of children's rights, anticipation and guarantee their needs in the criminal procedure. Furthermore, the project seeks to contribute to the efficient implementation of the EU Directive 2016/800 and especially Article 7 which refers to IA. The key aspects of the project are the workshops which are going to be scheduled within the timeline of the project as well as the handbook on IA to cover the comparative analysis of the members of the Consortium, from which good practices of major topics of the process of IA will be made available to professionals who come into contact with juvenile offenders and suspects.

The mental state of children is particularly fragile and their character could be influenced significantly by a variety of factors in their environment. Their young age as well as the critical state of their emotional and psychological condition, we consider children to be sensitive.

Therefore, minors might face noteworthy issues and difficulties when in regards of handling (handling in mental state) the criminal proceedings. Consequently, there are specific protection measures and legislation to regulate the criminal procedure as well as the criminal sanctions of minors and young people.

Procedural safeguards of accused, suspected or convicted minors in Cyprus, are not developed to a great extent, especially when referring to 2016/800/EU Directive stating the procedural safeguards for children who are suspects or accused persons in criminal proceedings. The Directive improves the circumstances under which Individual Assessment of minors who are accused/suspected/convicted, under Article 7 which states the procedure/steps for individual assessment of minors. The Republic of Cyprus did not have a great number of cases of juvenile delinquency, therefore one could say that the gaps identified, are only visible decade or so. However, even though the numbers are minor, we could not set aside the fact that Cyprus lacks of mechanisms for the individual assessment of juvenile offenders.

Due to the European legal framework, it is generally accepted that juvenile offenders and/or suspects need special protection in criminal proceedings in order to be able to understand what is being done before them (e.g. judicial proceedings, investigation of the case, rights of the accused etc.), in order to ensure respect for and exercise of their rights.

One would say that it is also important to state that Cyprus has been an independent state since 1960. During the years' prior, Cyprus was a colony of the British empire. Therefore, due to the impact from the British, the Cypriot legal system has a lot of influences in regards of the legal structure. Even though, the Cypriot Republic has its own laws, British case law is always considered to be relevant, even during court hearings. The fundamental legislation which regulates the juvenile justice in Cyprus is the Juvenile Offenders Law Cap 157. The legislation dates back to 1946 when it was adopted (British

colonial rule) and since then, it was amended only once, in 1972. It consists of 25 Articles which were never fully ratified (i.e. Juvenile Courts).

Furthermore, Cyprus has a monist legal system, which interprets to the fact that international law, if to be used, is directly applicable, which is relevant, *inter alia* for the application of the UN Convention on the Rights of the Child.

Therefore, the hierarchy of the legal rules are as follows:

- European law (supreme to any national law and even to the Constitution itself);
- Cyprus Constitution;
- International Law (is the set of rules generally regarded and accepted as binding in relations between states and between nations. It serves as a framework for the practice of stable and organised international relations);
- Ordinary laws (CAPITALS: define specific legislation and crimes and/or Procedures upon the justice system and the laws retained in force by virtue of Article 188 of the Constitution);
- Secondary legislation, and
- Administrative or Implementing Acts.

It is however important to define the concepts of 'criminal law' and 'juvenile' before citing the applicable legislation for juvenile offenders in Cyprus, in order to clarify the content.

The term 'criminal law' means all provisions which define and prescribe in a manner which imposes specific measures (sentences) against certain unlawful acts in order to restore social and legal order. Consequently, the term 'juvenile' in the Cypriot legislation is perceived as any person who has not reached the age of 18. However, in the framework of criminal justice and juvenile delinquency the Cypriot legal framework accounts criminal liability to minors aged 14[1]. Additionally, in regards of juvenile delinquency, a suspect/offender is considered to be a minor only up to the age of 16, even though, there have been examples where 17year olds are treated as minors too (Interview #01). Therefore, the Criminal Code (Cap. 154) states that '*anyone under the age of fourteen years is not criminally liable for any act or omission*'[2]. Today, people up to the age of 16 are criminally responsible but are dealt under the Juvenile Offenders Act[3]. Since the amendment of the law in 2006, the age of criminal responsibility in Cypriot juvenile justice system has been set at 14 years.

Consequently, there are a lot of definitions in the Cypriot legal framework in regards of 'minor'. The *Juvenile Offenders Law* (Cap. 157), defines as a child 'any person under the age of 14'. Additionally, it defines as a 'young person' the minor who is older than 14 years old but not more than 16. Therefore, the upper age limit of juvenile justice is 16[4], but 'young age' is seen as a mitigating circumstance also for young adults up to the age of 20 and even beyond. The Children's Law (Cap. 352) defines as a child any person who has not reached 18 years old[5].

Paragraph 63 of the Children's Law (Cap. 352) refers to the circumstances under which a person under the age of 16 may be regarded as a child in need of care and protection. Paragraph 64 of the same legislation, states that if the Juvenile Court is satisfied that the child before him is a person in need of

---

[1] Art 14 of the Criminal Code (Chapter 154) of the Republic of Cyprus. Online: https://sbaadministration.org/home/legislation/01_02_09_01_COLONIAL_CAPS_1959/01_02_01_04_Caps-125-175A/19600101_CAP154_u.pdf

[2] http://www.cylaw.org/nomoi/enop/ind/0_154/section-scaed29111-fa9c-4a13-85d8-681b0eabe8f6.html

[3] http://www.cylaw.org/nomoi/arith/CAP157.pdf

[4] Cyprus is thus in violation of the Children's Rights Convention, which stipulates a separate juvenile justice system for juveniles, defined as 'children' below the age of 18. (Art 40 (3) CRC).

[5] http://www.cylaw.org/nomoi/indexes/352.html

care and protection, they may take a number of measures which are in the child's favour and wellbeing.

Therefore, to summarise, 'child' is defined as a person under the age of eighteen under the following regulations of the provided legislations:

- The Convention on the Rights of the Child (Ratification) Law No. 243 of 1990 (UN Convention)
- The Children Law, Cap 352
- The Law on the rights of Persons Under Arrest and in Detention 163(I)/2005
- The Violence in the Family (Prevention and Protection of Victims Law 119(I)2000
- The Witness Protection Law N.95(I)2001
- The Law of Preventing and Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography 91(I)/2014.

The *Guardianship and Other Ways of Treatment of Offenders Act* 1996[6] (Law 46(I)/1996), is perhaps the most important reform that has taken place in the treatment of juveniles. The Act provides a wide range of measures, such as a guardianship decree that may be combined with community work or education, conditional supervision or other alternative sentences.

Moreover, in the Cypriot legal system, although there are provisions guaranteeing rights, there is no specific statutory legal framework for minors, instead, there are some legislative provisions dispersed across legislations which apply only to juvenile offenders, with sentences. In many instances, these provisions are similar and/or identical to those of the adults, with variations that meet the requirements of each case separately.

Another important reform is the introduction of the *Law of the Rights of People Arrested and Taken in Detention of 2005* (L. 163 (I)/2005)[7] which sets the rules for the regulation of detention as well as the rights of detainees and prisoners (such as their right to dignity). Article 6 of the legislation enshrines the right to parental information and guardians when the arrest is for a person under the age of 18. This is an obligation which lays with the Police Force. The Police should inform their parents/guardians for the arrest/detention of a minor, the reasons and if it is necessary to inform the Social Welfare Services (SWS).

Art. 10 provides that if a person under the age of 18, with limited intellectual incompetence, is interviewed by a Police Officer, their lawyer should be present at all times, throughout the investigation procedure. Moreover, Article 12 (3) affirms the rights of parents/guardians to attend all meetings/communication with his/her lawyer as well as for any medical examination or follow-up (Article 27 (2)). One can say that the existence of these two articles are to protect the minor from any violations of his/her rights during the criminal procedures.

Additionally, since minors are considered to be a group of vulnerable people, juveniles are allowed to have visitors every day while in detention (parents/guardians, relatives etc.), as provided by Article 16 (1). Thus, one of the most important provisions of this particular legislation, is that the juvenile detainee is placed in a different area than that of the adults (Article 20 (a)). However, convicted minors are imprisoned in the Central prison of Cyprus. The only difference is that they do not share the same sector with the adult detainees. For instance, minors share the same yard with adult detainees. Even though it is an extremely important aspect, it is not fulfilled in the Cypriot context.

[6] http://www.cylaw.org/nomoi/arith/1996_1_046.pdf (Law 46(I)/1996)
[7] http://www.cylaw.org/nomoi/indexes/2005_1_163.html (L. 163 (I)/2005)

There are at least three Ministries/sectors who are responsible in case of juvenile offender or suspect. The Ministry of Justice and Public Order through the Police Force and the Juvenile Delinquency Office, the Ministry of Labour, Welfare and Social Insurance through the Social Welfare Services and the Law Office of the Republic of Cyprus. Thus, there have been cases where the Ministry of Health through the Mental Health Services are present too.

It should be noted that the Ministry of Justice and Public Order (MJPO) and the Commissioner on the Rights of Child (CCR) have been preparing and promoting a Bill in regards of the needs of children in conflict with the law as well as matters related to the prevention and treatment of delinquency of children within the framework of the criminal justice system. The Bill, as stated by the MJPO and CCR will be in accordance with internationally legally binding instruments and guidelines[8]. However, this has been delayed since there have been at least five years since this Bill is being discussed. Even though we were expecting the Bill to become Legislation during 2019, it does not seem as the case now, mainly, due to the infrastructure that the State needs in order to safeguard and protect juveniles' rights and civil liberties.

As one might conclude, the most important pieces of legislation while dealing with juvenile offenders and/or suspects, and refer to children directly are: Children's Law (Cap. 352), Juvenile Offenders Law (Cap. 157) and the Law of the Rights of People Arrested and Taken in Detention. Additionally, the Criminal Code and the Law on Criminal procedure do not have a separate chapter to refer to juvenile crime, however, we must state that the Juvenile Offenders Law is considered *ius speciale,* therefore, in incidents where a child is committing a crime, the rest of the legislation functions as *ius generale*.

Description of criminal procedure for juvenile offenders in Cyprus

One of the most serious aspects of juvenile system procedures is the fact that the Court that rules the cases of children is not separated with the one that rules cases for adults. Therefore, one might say that there is lack of infrastructure. The place where the crime is committed, defines the district court where the case will be handled and held. There are no requirements for the specialisation of judges to become in judge for juvenile justice, although the SWS as well as the Police Force hold trainings in regards of child law cases, including lawyers and police officers.

The *Juvenile Offenders Act*, under Article 5 regulates issues in regards of the court hearing. For example, the fact that the cases of minors are held in a Juvenile Court which should be located in a different building/infrastructure from the District and Supreme Courts. However, in reality, the cases concerning juvenile offenders are being held in the District or Assize Court depending on the case, since there is no provision for Specialised Juvenile Courts (which is included in the new Bill as stated above). One can refer to the case of *Republic of Cyprus v Alexis Anastasiou* [9] in which the accused was a 17-year-old which was held at the Assize Court of Larnaca for the criminal offence of homicide.

It should be noted that according to the specific legislation, the court may ask for additional information on the juvenile (i.e. school performance, behaviour, medical history etc.)[5] which could be important for the outcome of the case. This specific part of the Cypriot legislation, reflects to Article 7 of the Directive 2016/800/EU in which under clause 6, there is a specification concerning the absence '[…] *of an individual assessment, an indictment may nevertheless be presented provided that this is in the child's best interests*[...]'.

[8] Convention on the Rights of the Child, General Comment No, 10 (2007), Children's Rights in Juvenile Justice CRC/C/GC/10, 25th of April, 2007.

[9] Republic of Cyprus v Alexis Anastasiou, case ref. 16022/2014

This kind of information is up to the discretion of the officer of the SWS. If a minor is arrested, officers of the SWS will record (if needed) a socioeconomic report, regarding the minor. However, the most significant gap in this case is that, psychologists are not engaged to have a meeting with the offender at any time. The only aspect in which psychologists are involved is when the conviction is related to addictive substances/drugs.

Another important reform is the introduction of the *Law of the Rights of People Arrested and Taken in Detention of 2005* (L. 163 (I)/2005)[10] which sets the rules for the regulation of detention as well as the rights of detainees and prisoners (such as their right to dignity). Article 6 of the legislation enshrines the right to parental information and guardians when the arrest is for a person under the age of 18. This is an obligation which lays with the Police Force to communicate with parents/legal guardians and the SWS.

If we take into account that we have a fifteen-year-old who is a suspect of crime, they will be dealt with the *Juvenile Offenders Law*. According to Art 12 of the stated legislation the measures are as follows:

a) Dismiss the case,
b) Impose probation,
c) Commit the offender to the care to a relative or other fit person,
d) Send the offender to a reform school,
e) Order the offender to pay a fine or to restore the damages,
   And as a last resort:
f) Imprisonment.

Part of the procedure might be the alternative ways instead of imprisonment which can be found under the *Law of Guardianship and Other Ways of Treatment of Juvenile Offenders* (Law 46(I)/1996).

One of the most common ways to deal with juvenile offenders according to the above-mentioned legislation is the issue of *Order for fostering* (Art.5). In this way, the offender is placed under the supervision of the 'Custody Officer' (Officer of the SWS) for a period of time between one year up to three years. According to this, the offender is placed under the supervision of a custody officer for a period of time defined therein. The choice of the terms of the custody decree is left up to the discretion of the Court. Taking into consideration the circumstances and the family environment of the offender, such terms are considered to be necessary in order to ensure the 'good conduct' of the juvenile offender or to prevent them from another criminal act. According to the Order with community-based regulations, the juvenile offender would do community work for a specific period of time, which is not really specified in the legislation[7]. The above Order can be issued if:

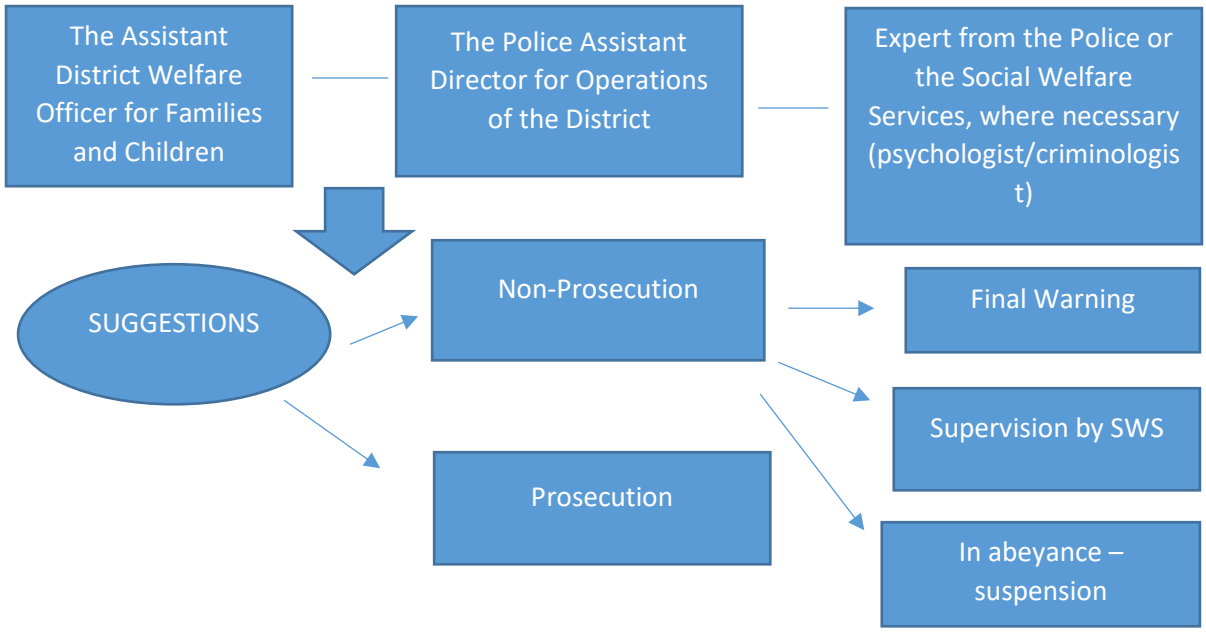
a) The offender accepts, (Art.6)
b) Appropriate arrangements have been made by the Ministry of Labor and Social Insurance, (Art. 7) and
c) The juvenile offender is a person suitable for the performance of community work (this is proven by the report from the SWS).

If the juvenile offender fails to comply with the terms of the Order or is accused of intoxication or other addictive substances, then the Officer will prepare a new report and the offender will have to appear in Court. The Court then, may impose a fine or cancel the Order and give a sentence to the offender (within the limits of its jurisdiction). For example, this was proven in the case of *Head of*

[10] *Law of the Rights of People Arrested and Taken in Detention of 2005* (L. 163 (I)/2005) http://www.cylaw.org/nomoi/indexes/2005_1_163.html

Police of Limassol v Constandinou Georgiou[11] in which the Court, after taking into account the specificities of the case (marital status, report from SWS, etc.) imposed a penalty of imprisonment of the juvenile offender (aged 17.5) because he repeatedly violated the terms of the Guardianship Order.

Moving on to the procedure of the case, if the suspect of a crime is a minor (between the age of 14 and 16), when a crime is reported to the local police station, the Juvenile Board acts. The Juvenile Board/Committee consists of the Assistant Chief of Police, Officer of the Social Welfare Services and when needed, a psychologist and/or criminologist. Every municipality/province has their own Juvenile Board who is supposed to meet once a month. In practical terms, this is not feasible. In cases where the professionals consisting the Board, need clarifications and/or recommendations, they ask the Attorney's General Office.



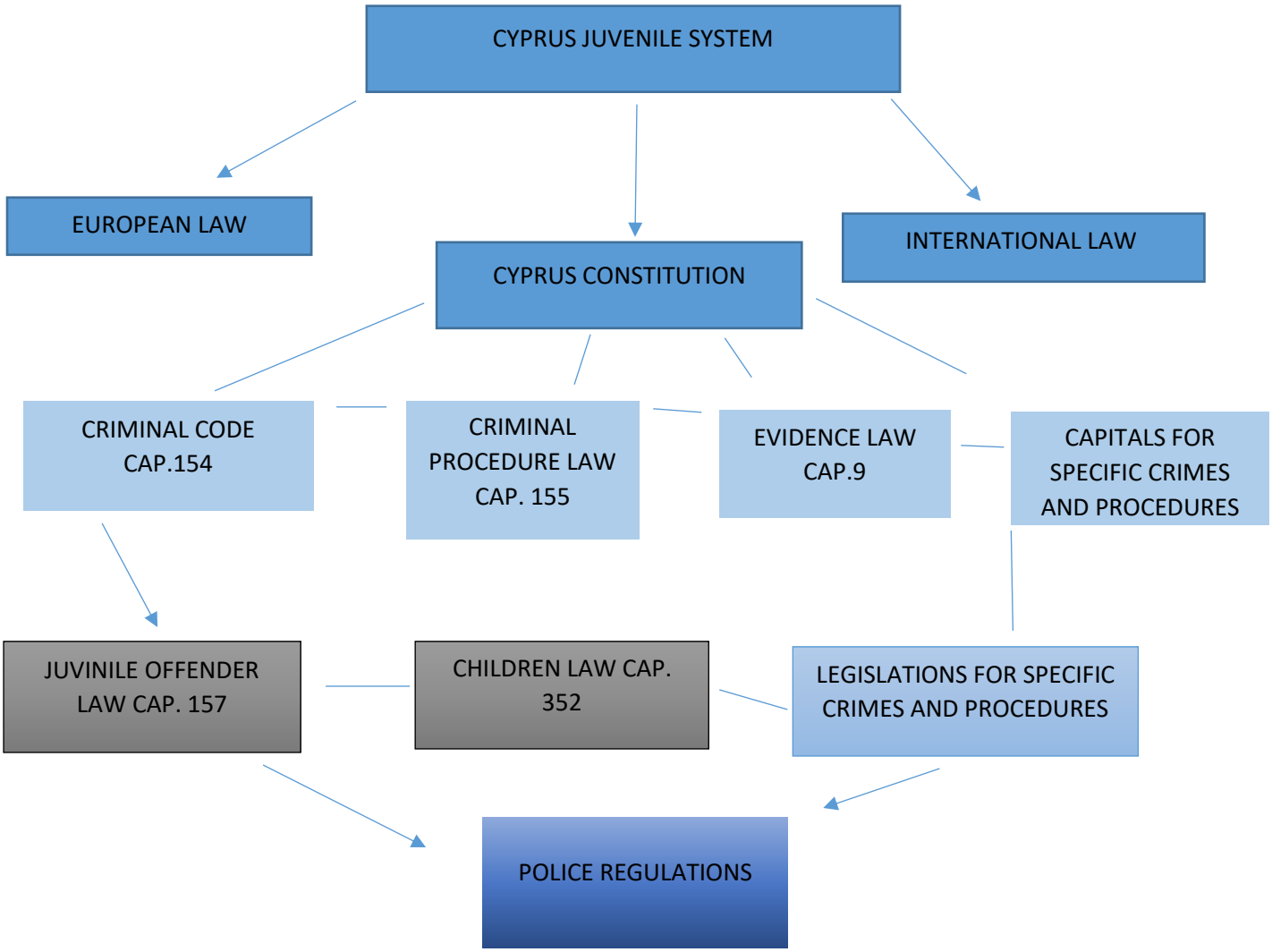
Moreover, a probation order (1-3 years of supervision) can be combined with community service or conditions of vocational or other sort of training. The training measures however, entail the consent of the minor[12]. One should also take into account the fact that the court can also impose a prison sentence and suspend execution in cases that it does not exceed the limit of 3 years.

Even though, under the Children's Law (Ch. 352) Article 64, the offender shall be placed in a reforming school, we do not have such an authority in Cyprus, yet. Additionally, due to the fact that the Cypriot Republic does not have a juvenile detention center, the Central Prison (which is the only one in Cyprus), is the one that hosts juvenile offenders.

Therefore, the separation of the adults and minors is not fully guaranteed, even though, in 2012, the Cyprus Office of the Commissioner for Children's Rights, urgently recommended the establishment of separate blocks for young offenders[13]. She also recommended educational and vocational training as

[11] Head of Police of Limassol v. Constandinou Georgiou, case ref. 34504/10
[12] Stylianou AS, (2015: Cyprus. In:IJJO(Ed.): BAAF – Alternatives to custody, Foster Care in the EU member States, Bruxelles, p.85
[13] *Committee for the Rights of the Child*, (2012): Ending violence against Children in Custody.

well as the involvement of the juvenile offenders in creative activities as a tool to prevent tendencies of violence[14]. Additionally, the Commissioner recommended a special block for juveniles under the age of 18 and another one for under 21-year old young adults.



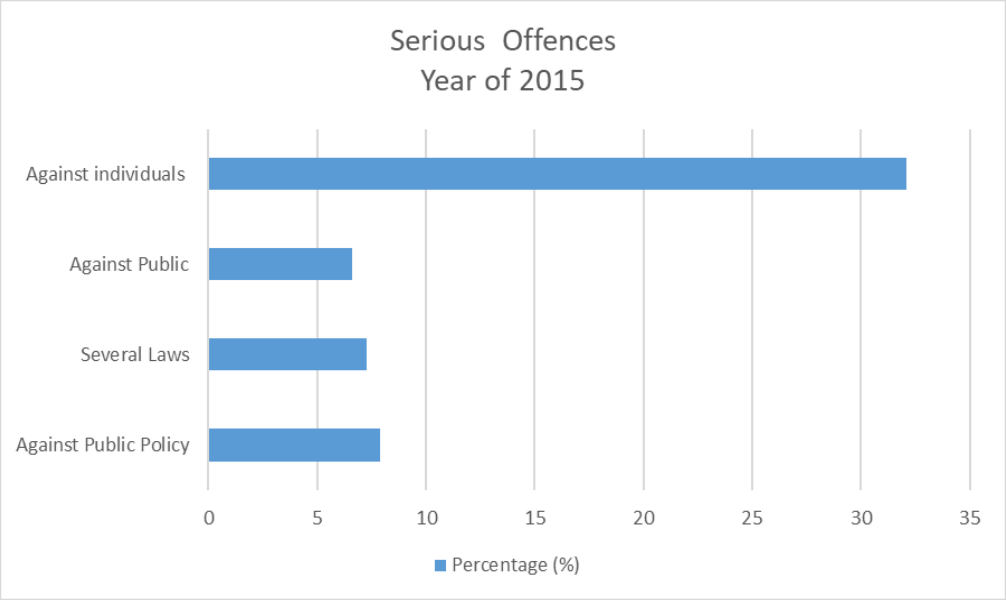
[14] *Ibid* p.12

Statistics

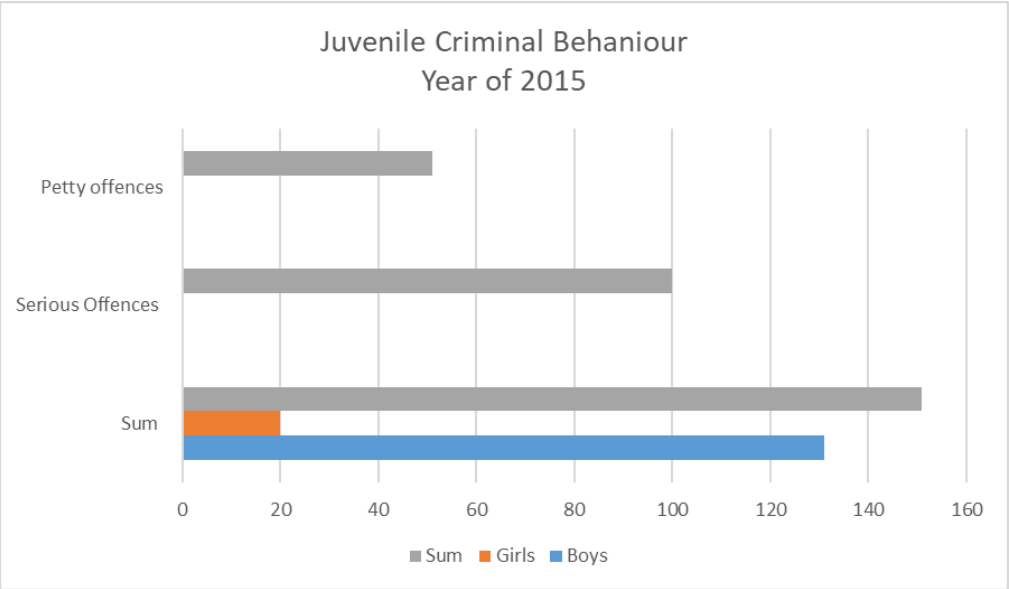
The official statistics from the Republic of Cyprus are not the most updated, however our research team has acquired some. One can also see the figures in charts as well.

According to official data gathered in 2015, provided by the Statistical Service of Cyprus[15], there were 151 reported cases of juveniles in conflict with the law between the ages of 14-16.

Specifically, a percentage of 13.2% or 20 of them were females and 86.8% or 131 of them were males. From 151 offenders, 100 were committed serious crimes and 51 of them were committed petty crimes. In relation with serious crimes committed by juveniles, accurately, the 53.0% or a number of 80 persons participated in offences against property, 7.9% which refer to 12 persons, participated in crimes against public order, 7.3% that is 11 persons, participated in crimes of several other laws and the rest of them participated in crimes against public and individuals.

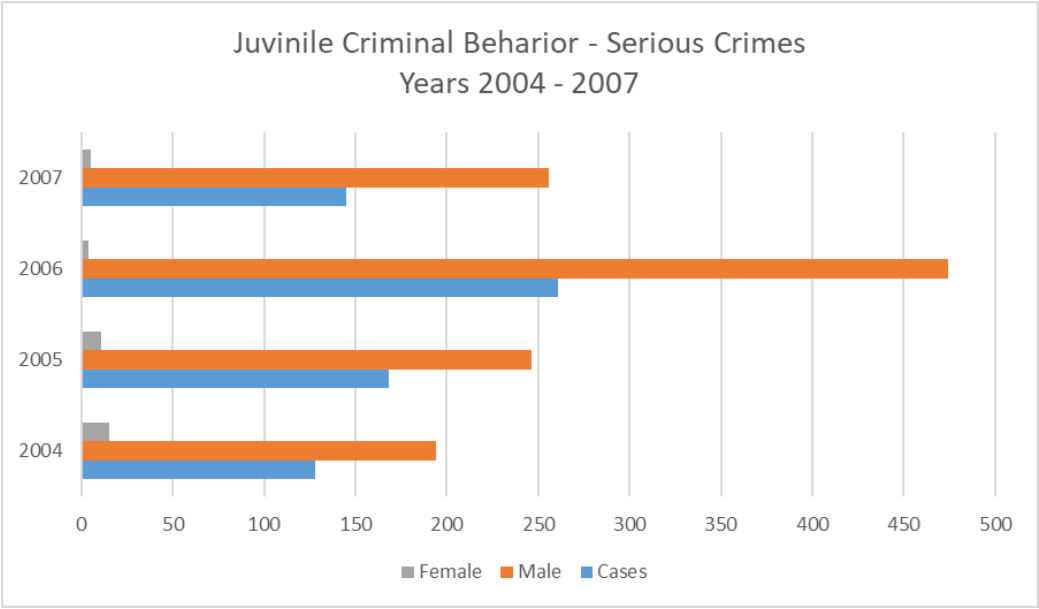


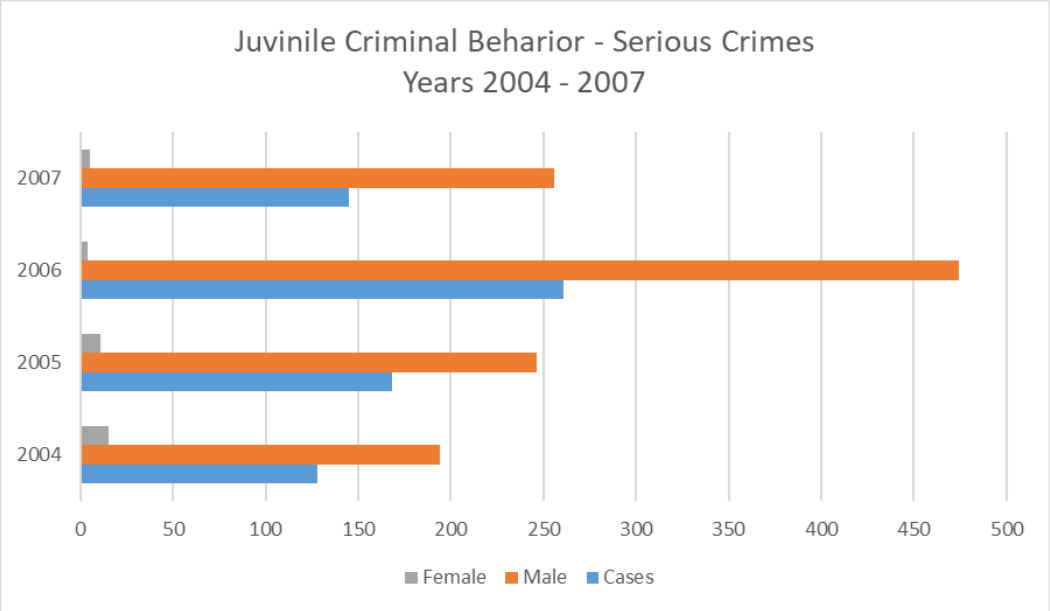
[15] https://www.mof.gov.cy/mof/cystat/statistics.nsf/All/2996200371D490C4C22578BC002FC5BA/$file/CRIMINAL_STATISTICS-2015-EL-170817.pdf?OpenElement



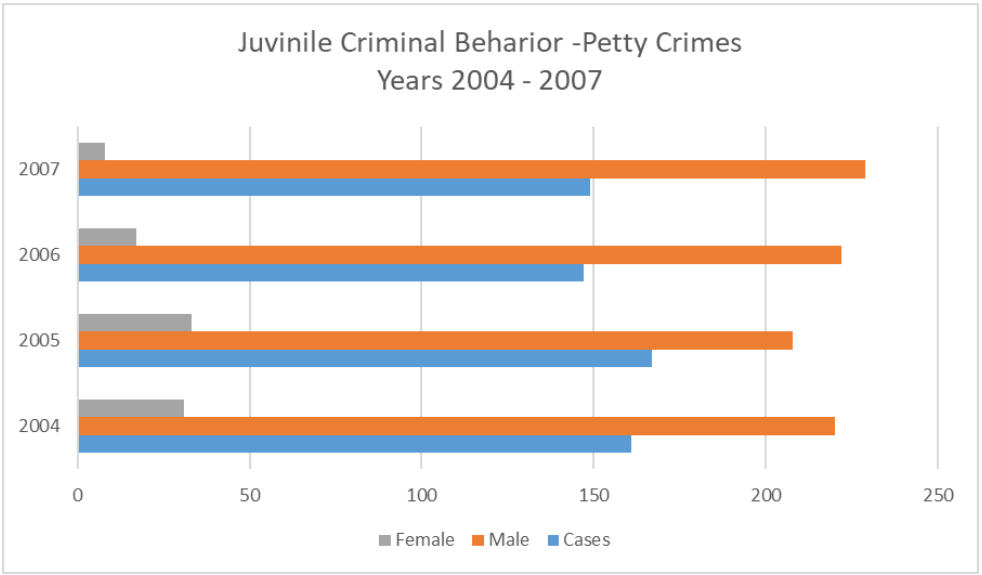
Additionally, the SWS have collected data in which one can see that in 2004 there were 128 cases with offences committed by juveniles with 194 male offenders and 15 females. In the next year, number of offenders increased worryingly with 168 cases and 257 juvenile offenders of which 11 were females. In 2006, there were a more dangerous increase of offender's number from 257 to 478, which is almost doubled from the previous year. Fortunately, the follow year, 2007, the number dropped from 261 cases from previous year to 145 with 256 male offenders and 8 females.

The same research noted in relation to *serious crimes* that in 2004, 13 of the offenders committed crimes against public policy, 1 against legitimate authority, 3 against public, 153 against property and 27 against individual. In 2005, 12 persons committed crimes against public policy, 1 against legitimate authority, 11 against public, 114 against property and 29 against individual. In 2006, the numbers were 10, 2, 3, 148 and 26 respectively.





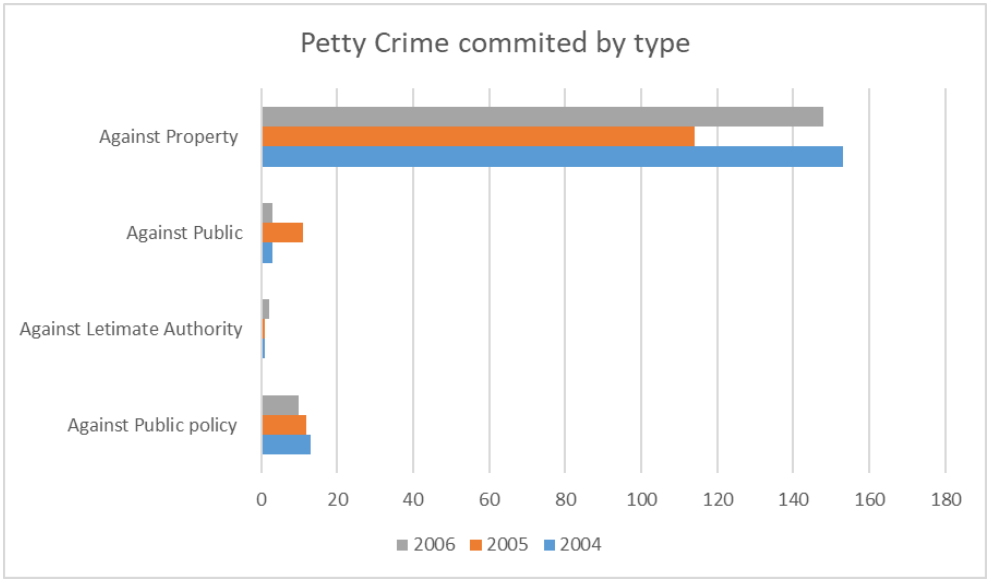
Relevant statistics on *petty crimes* from the noted research above showed that in 2004, there were 128 cases with 209 offenders in contrast with 2005 were 168 recorded cases with 257 juvenile offenders. In 2006, the number of the cases recorder were alarming with 261 cases with crimes committed by 478 juveniles from which only 4 of them were females. In 2007, for 145 cases there were 264 offenders.



According to the findings of the illustrated data, the number of serious cases which reported to police were 5.915, whereas the corresponding figure for the year of 2014 was 6.833, that means that we had a decrease of 13,4% between 2014 and 2015.

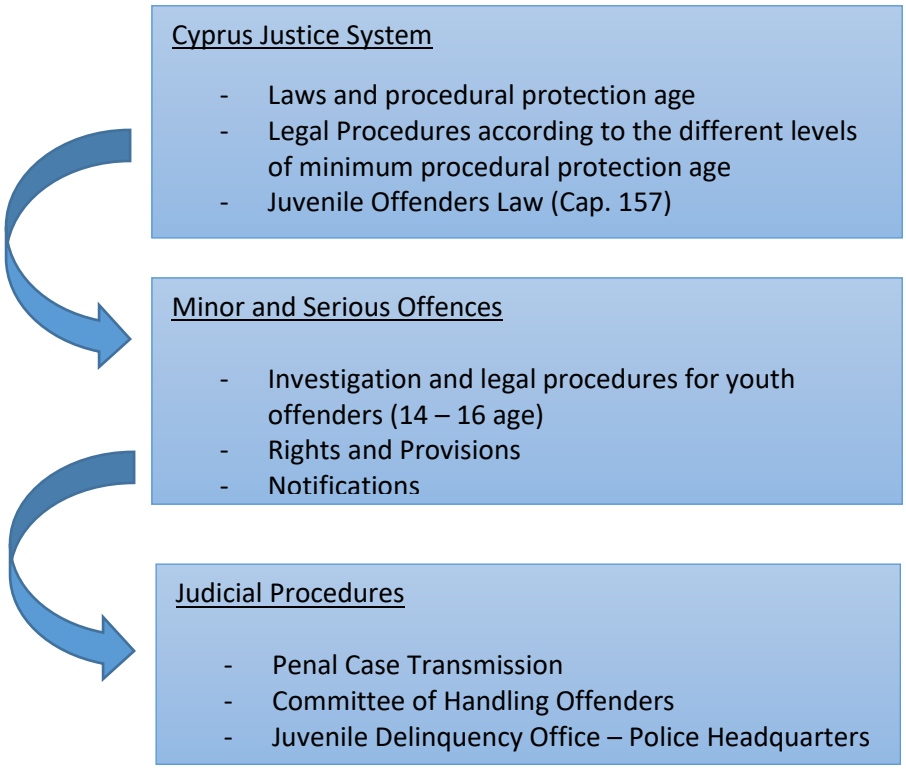
Statistics indicate that over the years the number of juvenile offenders are upsettingly increasing. In 2004 we had 460 offenders, a number increased to 717 offenders in 2006. That number reduced in 2007 to 508 offenders, however it still remains a bigger number from 2004 when it should be reduced over time if the society could provide the necessary and relevant professionals, tools and infrastructures.

Offences against property is the largest group with 54.7% of serious offenses. Following is the category of the offenses that generally affect the public at 16.1%, the various offenses with 7.6%, the forgery, coin and offenses 6.6% fraudulent property and property damage offenses with 6.3%.



Legal elements and provisions for individual assessment of young offenders in Cyprus

In regards of the legal elements and provisions the Cypriot Juvenile Justice System is summarised as such:



Although the protection offered to child suspect/offender is restricted in relation to that offered to the child victim, one shall have in mind the following:

a) A child suspect who will come before the Court either to provide evidence or to provide facts in order for his/her sentence to mitigate, is entitled to protection as a witness, the same way that the child victim will have or a child witness. However, these measures are up to the discretion of the honourable Court and are granted by the Court where there is a significant degree of vulnerability. One shall also have in mind that the child suspect requires protection from the Court for a series of factors, such as the psychological condition of the suspect/witness child as well as the media coverage of the event and the presence of relatives of the victim during the court hearing.
b) The general framework as regards children, dictates that children in need must be protected by the SWS[16] and that prime consideration should be given to the best interests of the child[17], which can ultimately be used in favour of the child suspect/offender/defendant.

Unfortunately, in Cyprus, there is no comprehensive authority/institution/organisation for restorative justice measures. When one looks at the local communities, they can identify the specific department of Juvenile Committees under the SWS (dealing with minors under the age of 16 as well as with minors

[16] Children's Law, Cap.352 (1959)
[17] Convention on the Rights of the Child, Art. 3

who are in need of care and are under the age of criminal responsibility). Additionally, one can also find the Juvenile Boards in every district in Cyprus as stated above.

Assessment of juvenile offenders

Types of assessment present within the juvenile justice system

The assessment is based on the child's background, his/her parents' backgrounds, medical history for both child and parents, school performance, child's environment, social and economic situation of the family. Assessment can take up to a year to be done (because of some tests such as DNA which take time) and there is no follow up from the Social Welfare Services (who conduct the individual assessment). In incidents where the case goes to a court hearing, depending on the child's maturity and their age, they might be accompanied by an officer of the SWS. However, there are cases where the officer from the SWS did not include in their report any details in regards of the child's maturity or could be in the benefit of the child.

When one observes the aspects of Art.7 of the EU Directive, they will identify crucial aspects that Member States (MSs) should take into consideration in regards of the protection of rights of children who are suspects of being in conflict with the law, such as:

1) Specific needs of children concerning protection, education, training and social integration;
2) The individual assessment shall take into account the child's personality and maturity, the child's economic, social and family background, and any specific vulnerabilities the child may have;
3) The extent and detail of the individual assessment might vary depending on the circumstances of the case;
4) Individual assessment shall serve to establish and to note, such information about the individual characteristics and circumstances of the child as might be of use to the competent authorities when:
    a) Determining whether any specific measure to the benefit of the child is to be taken;
    b) Assessing the appropriateness and effectiveness of any precautionary measures in respect of the child;
    c) Taking any decision or course of action in the criminal proceedings, including sentencing.
5) The individual assessment shall be carried out at the earliest appropriate stage of the proceedings;
6) In the absence of IA, an indictment may nevertheless be presented provided that this is in the child's best interests and that the IA is in any event available at the beginning of the trial hearings before a court;
7) IAs shall be carried out with the close involvement of the child. They shall be carried out with the close involvement of the child, and should be carried out by qualified personnel, following, as far as possible, a multidisciplinary approach and involving, where appropriate, the holder of parental responsibility or another appropriate adult;
8) If the elements that form the basis of the IA change significantly, MSs shall insure that the IA is updated throughout the criminal proceedings;
9) MSs may derogate from the obligation to carry out an IA where such derogation is warranted in the circumstances of the case, provided that it is compatible with the child's best interest.

Taking into account the stated aspects of the Directive, Cyprus, has not implemented all the key points suggested. For example, we have no standardised procedure in regards of the assessment of juvenile

offender/suspect, therefore, every professional uses their own skills and abilities as social workers and/or as psychologists. At the moment, as stated in other sections of the report, the socio-economic background of the child as well as the parents is part of the report, however, the professionals cannot assess the maturity of the child without a tool. One could conclude that the Directive and Individual Assessment as stated, Cyprus has not implemented nor ratified the respective article.

Description of individual assessment in Cyprus

In regards of the assessment and reports the Social Welfare Services prepare, they prepare them after a request from the Director of the Police Force. The purpose of the report is that it can be presented during court hearing or even prior to the hearing, so the judge(s) can decide about the sentence of the juvenile offender and/or suspect.

The assessment includes general information about the family, information about the minor, the juvenile's environment (school, etc.). However, there is no specific tool which the officers use in order to produce the report or to make the assessment. The officers have some general guidelines in regards of how to write and conduct the assessment, however, it is not considered to be a tool since it is not only used for juvenile offenders and/or suspects. It is a general guideline in regards of all the reports produced by the Social Welfare Services. It is worth mentioning, that the report of the assessment might be produced with not even a single house visit.

In relation to the maturity of the minor, the Social Welfare Services do not do any kind of assessment, however, if it is needed, the minor is referred to Mental Health Services. The Mental Health Services do not use a specific tool for the assessment of the juvenile offender, but, they use the Minnesota Multiphasic Personality Inventory (MMPI) which can assess personality traits and psychopathology. It is primarily intended to test people who are suspected of having mental health or other clinical issues, which most of the times, it does not reflect the minor's situation.

Results of research interviews with relevant stakeholders

Our research team has interviewed six professionals, coming from the Social Welfare Services, Mental Health Services, the Ministry of Justice and Public Order as well as 'first-line' officers. The outcomes of the interviews will be illustrated in the next paragraphs.

The first aspect that our research team found out is that there is no toolkit or assessment (adapted to Cypriot context) under which the juvenile offenders and/or suspects are assessed. The results of the interviews conducted, illustrates the gaps which are found in the Cypriot Juvenile System. The fact that the legislative framework is very old and was not conducted for the population of Cyprus, as it was transferred by the English legal system, makes the system dysfunctional in many ways as stated above.

While interviewing ex 'first-line' officers, they were clear that there is no toolkit or assessment which they use for the assessment of the minors. The assessment is based on what the officer is able to identify from the family background and the behaviour of the minor. However, one should also take into consideration that every officer of the SWS could be handling up to 100 cases, since they do not deal only with juvenile offenders. Therefore, from the interviews, as well as from desk research, one is able to identify the understaffing of the SWS, and due to this, the officer might not be able to conclude a comprehensive report.

In fact, the Law Office of the Republic, asks for the SWS for the so-called report ''assessment of the appropriateness'' for the judge to be able to evaluate the case/incident before the penalty. As they stated, the process that each social worker follows to create the report of the assessment is not

objective as there are no guidelines for them to follow. The gaps would be fulfilled as they stated if, the professionals of the field had experts' trainings on how to conduct the assessment, which should include the demographical information of the family's background, social report which would be referring to the relationships of the minor (in the family, school, friends etc.), the emotional and psychological situation of the minor, previous delinquency acts, information from the school environment, the child's interests as well as the way the minor deals and manages incidents in order to complete their future goals.

Following the other interview, by the officer of the SWS, who reported that the assessment of minors, include general information such as the family's background (including the minor), history report, juvenile's environment (school etc.). The officer also mentioned that there is no specific tool or assessment which they all use in order to complete the report that the Law Office requests. There only oral guidelines given to social workers and in numerous cases, the officer considers a house visit unnecessary. However, in regards of the maturity level of the minor, this is not assessed by a psychologist (according to the Directive and the legislative framework of Cyprus, it should be conducted by a psychologist). If it is necessary to assess the maturity of the child, they are referred to the Mental Health Services (Ministry of Health), however, it is not a common practice.

In relation to the Directive and the fact that detention centers should be divided to adults and minors, the officer believes that this is aspect is not ratified either. Due to the fact that Cyprus was given a legislation and it was not written in Cyprus to serve the Cypriot population, much of the procedures and aspects legislation are not ratified either (i.e. Juvenile Courts). Thus, the new bill of legislation which is being prepared by the Ministry of Justice and Public Order, includes most of the provisions of the Directive. In the officer's view, the Republic of Cyprus will be able to fully comply with the Directive as soon as it gets voted by the Parliament. At the moment, the bill is being reviewed by the Parliamentary Committee of Legal Affairs.

Consequently, our research team tried to get more information in regards of the new bill (Establishing a Child-Friendly Criminal Justice System for Minors who are in Conflict with the Law (Prevention, Treatment in the Criminal Justice System and Tackling Offences – Law of 2019), therefore, they interviewed the appointed officer from the Ministry of Justice and Public Order in regards of Juvenile Justice. The officer from the Ministry informed our research team that the new bill was drafted before the EU Directive, however, the obstacles the state is facing is in regards of the non-existing support services as well as the infrastructure. The officer made it clear that the main purpose of the new legislation is to avoid any type of prisoning as a penalty. Detention, in the proposed legislation, will be the 'extreme' measure for very serious incidents.

Additionally, the new legislation has provisions for the training of professionals who come into contact with minors who are in conflict with the law. Furthermore, the process in regards of when arresting a minor, will be as follows:

- Inform Commissioner of the Rights of the Child
- Inform the SWS
- Inform the minor about their rights (police officer informing)
- All the questioning (interrogation) has to be done in 24 hours' maximum
- Support the minor, in case his family is not able to support them
- Transmission to the Attorney General to decide how the case will proceed.

Furthermore, the new bill has provisions for preliminary program which can refer to 6 or 12 months for the monitoring and supervision of the juvenile, with adequately trained professionals. In regards

of the aspects of the new bill, the court for juveniles will be established, however, due to limited funding, for the first years, the family courts will act as the court for juveniles. It will consist of 3 judges of the family court, but, in a separate courtroom than the one for adults. The physical presence of the minor at court, is a requirement. In regards of detention, the detention of minors will be the last measure and it will only be directed to minors from 16 to 18 years of age. There is also a part of the new proposed bill in regards of the detention center for juveniles. As we were informed, the central prison will accommodate the minors for the first years, however, it is the State's target to establish a juveniles' detention center.

In regards of the individual assessment and the new bill, the assessment will be done from the moment the incident is reported as well as up to the preliminary stage. As the officer explained, individual assessment should be taken into consideration by every professional and/or service which comes into contact with juvenile offenders/suspects. Additionally, in regards for minors with specific needs, the bill does not provide any specific requirements in such incidents, however, it is made clear that any special need has to be taken into consideration.

Furthermore, our research team has interviewed a psychologist from the Mental Health Services in order to find out more about individual assessment and how this is conducted in Cyprus. The clinical psychologist stated that there is no tool/assessment specific for juvenile offenders/suspects. They usually use the MMPI test[18] (personality test) which is conducted to evaluate a person's personality and their maturity.

When a minor is involved in an incident which involves drugs, the Mental Health Services refer the minor or young adult to the Multi-intervention center. This practice is followed if the minor or young adult was caught for the first time and if they were found with a small quantity. The center has a program called 'early interventions' where experts work with the minor to prevent criminal behaviour in relation with drug usage. The professionals do not receive specific training for this, however, it is part of their expertise as psychologists.

In regards of the cooperation of the Mental Health Services with other authorities, the participant informed us that in cases where the minor is imprisoned, there is cooperation with the SWS and the minor's parents or legal guardians. Additionally, in regards of the central prison, the participant informed us that, even though there is a specific wing for minors and young adults, it is only divided by a barrier. It is important to state that minors who are imprisoned, go for lunch and for a 'break' in the yard, at the same time with adults who are imprisoned.

Besides, our research team conducted an interview with an officer of the Police Force who works in the Juvenile Delinquency Office. The participant, explained that even though there is no toolkit for the assessment of juvenile offenders, they use the Juvenile Board which is composed by the Assistant Chief of Police, an officer of the SWS and when it is needed, a criminology and/or psychologist.

Additionally, as the Police Officer informed us, the assessment is based on the child's background, parents and their backgrounds, medical history, school performance and environment as well as social and economic situation of the family, however, as far as the participant is aware, there is no specific tool. Furthermore, from our participants' experience, it depends on the officer who will conduct the individual assessment. As we were informed, there are incidents were the individual assessment is comprehensive and 'on spot', however, it depends on the willingness and skills of the professional. In regards of the Police Force, their main duty and concern is the protection of children's rights. In cases

[18] https://psychcentral.com/lib/minnesota-multiphasic-personality-inventory-mmpi/

where the minor is cooperative and if they confess, the matter is usually solved outside of the courtrooms, with the approval of the Attorney General.

Conclusions and Recommendations

One needs to take into account the fact that juvenile delinquency is not a real problem in Cyprus. The absolute numbers of juveniles appearing in court per year are rather small. According to *Kapardis*[19], between 478 and 170 juveniles reported to the police for 'serious' offences (regularly burglary and theft or criminal damage of at least 794 euros) every year from 2000 – 2011[20]. However, the fact that the numbers are not as high as in other Member States, it is of great importance to rehabilitate the minors back to society and offer them the chance to enhance their capacity, education and skills.

The above mentioned legislations state that there should be a reformatory school in which the minor offenders are placed, however, it was never created in Cyprus. In addition to this, it has been observed that in some cases, the sentences imposed are the same with the adult sentences. There is indeed, a great gap in regards of juvenile offenders and their rights, however, there is the legislative framework to support the benefit of the child, whether he/she is an offender or not. One could say that the effectiveness of these measures are inadequate as the Cypriot Republic presents noteworthy deficiencies when dealing with juvenile offender. For example, the absence of special detention centers, juvenile courts and a comprehensive legislation for juvenile offenders. Furthermore, the legislation which regulates the prosecution of juvenile offenders does not cover the needs of the State nor the rights of the suspected/prosecuted/convicted minor.

Therefore, the Republic of Cyprus must make a series of actions in order to adopt a specific comprehensive legislation in regards of juvenile offenders, recruit expert staff for managing arising matters for juvenile offenders, training of existing staff and be able to do individual assessment as stated in the European Directive 2016/800, having a tool-kit/manual to assess the incidents. In addition to this, training should also be provided to lawyers, police officers, judges and 'first-line' officers (working in SWS, NGOs, etc.) for the measures to be more effective.

In conclusion, after the analysis and referrals of the relevant legislation which regulates criminal proceedings in juvenile justice, it is clear that Cyprus does not have any specific, efficient and complied legislation. Additionally, the complete absence of facilities (juvenile courts, juvenile detention centers etc.) along with the non-ratified existing legislation, one can identify the large gap which will eventually be filled with the new bill on the establishing of a child-friendly Criminal Justice System for Minors who are in Conflict with the Law (Prevention, Treatment in the Criminal Justice System and Tackling Offences). The bill seems to be a very comprehensive legal document and eventually, matters will be regulated through competent authorities.

[19] Kapardis A (2013): Juvenile delinquency and victimization in Cyprus. European Journal on Criminal Policy and Research 19, p. 171 – 182.
[20] *Ibid* p. 173