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THE LAW ON JUVENILE CRIMINAL OFFENDERS AND CRIMINAL PROTECTION OF JUVENILES

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THE LAW ON JUVENILE CRIMINAL OFFENDERS AND CRIMINAL PROTECTION OF JUVENILES

Part One

BASIC PROVISIONS

Application of the Law

Article 1

This Act shall contain provisions applicable to juvenile perpetrators of criminal offences (hereinafter: juveniles). Provisions of this Act shall relate to substantive criminal law, relevant implementing bodies, criminal proceeding and enforcement of criminal sanctions against these offenders.

Provisions of the Act shall accordingly apply to persons of legal age when tried for criminal offences committed as juveniles, when requirements set forth under this Act have been met, as well to persons who have committed a criminal offence as young adults.

The Act also includes particular provisions on protection of children and juveniles (hereinafter: minors) as victims in criminal proceedings.

Exclusion of Criminal Sanctions Against Children

Article 2

Neither criminal sanctions nor other measures provided under this Act may be pronounced or applied to a person under fourteen years of age at the time of commission of an unlawful act provided under law as a criminal offence.

Age of Offender

Article 3

A juvenile is a person who at the time of commission of the criminal offence has attained fourteen years of age and has not attained eighteen years of age.

A younger juvenile is a person who at the time of commission of the criminal offence has attained fourteen and is under sixteen years of age. An elder juvenile is a person who at the time of commission of the criminal offence has attained sixteen and is under eighteen years of age.

A young adult is a person who at the time of commission of the criminal offence has attained eighteen but has not reached twenty one years of age at the time of the trial, and who meets other conditions set forth by Article 41 of this Act.

Application of General Provisions of the Criminal Law

Article 4

Provisions of the Criminal Code, the Criminal Procedure Code, the Enforcement of Penal Sanctions Act and other general statutes shall apply only if not in contravention with this Act.

Part Two

CRIMINAL PROVISIONS ON JUVENILES

PROVISIONS OF SUBSTANTIVE CRIMINAL LAW

DIVERSION ORDERS

General Rules

Article 5

One or more diversion orders may be applied to a juvenile offender for criminal offences punishable by a fine or imprisonment of up to five years.

The relevant state prosecutor for juveniles or a Juvenile judge may apply a diversion order to a juvenile.

The requirements to apply a diversion order are: juvenile's confession of a criminal offence and his attitude towards the offence and the injured party.

Purpose of Diversion Order

Article 6

The purpose of diversion order is to avoid instituting criminal proceeding against a juvenile or to suspend proceeding and/or, by application of the diversion order, to influence proper development of a juvenile, enhance his personal responsibility in order to avoid a relapse into crime in future.

Types of Diversion Orders

Article 7

Diversion orders include:

- 1) Settlement with the injured party so that by compensating the damages, apology, work or otherwise, the detrimental consequences would be alleviated either in full or partly;
- 2) Regular attendance of classes or work;
- 3) Engagement, without remuneration, in the work of humanitarian organisations or community work (welfare, local or environmental);
- 4) Undergoing relevant checkups and drug and alcohol treatment programs;
- 5) Participation in individual or group therapy at suitable health institution or counselling centre.

Choice of Diversion Order

Article 8

In selecting the diversion order the competent state prosecutor for juveniles and Juvenile judge will have regard to the overall interest of the juvenile and the injured party, taking into account that application of one or more diversion orders does not interfere with the schooling or employment of the juvenile.

Duration of a diversion order may not exceed six months and may be substituted by another diversion order or revoked during the said period.

Choice and application of diversion order is done in conjunction with the juvenile's parents, adoptive parent or guardian and competent guardianship authority.

1.Types of Criminal Sanctions

Article 9

Educational measures, juvenile detention and security measures, stipulated by Article 79 of the Criminal Code, may be pronounced to juvenile offenders, with the exception of restraint to be engaged in his occupation, business activities or duties.

Only educational measures may be pronounced to younger juveniles.

Educational measures and exceptionally juvenile prison may be pronounced to elder juveniles.

Under the terms of this Act security measures may be pronounced to juveniles.

2. Purpose of Educational Measures and Juvenile Prison Sentence

Article 10

Within the framework of the general purpose of penal sanctions (Article 4 of the CC) the purpose of criminal sanctions against juveniles is to influence the development and enhancement of personal responsibility of the juvenile, education and his proper personality growth through supervision, protection and assistance as well as by providing general and professional qualifications in order to ensure the juvenile's resocialisation into the community.

The purpose of juvenile detention is, in addition to objectives specified in paragraph 1 of this Article, to administer intensified influence on the juvenile offender not to commit criminal offences in the future, and as deterrent to other juveniles not to commit criminal offences.

3. Educational Measures

Types of Educational Measures

Article 11

Educational measures include:

1) Warning and guidance: Court admonition and alternative sanctioning;

2) Measures of increased supervision: increased supervision by parents, adoptive parent or

guardian, increased supervision in foster family, increased supervision by guardianship authority, increased supervision with daily attendance in relevant rehabilitation and educational institution for juveniles;

3) Institutional measures: remand to rehabilitation institution, remand to correctional institution, committal to special institution for treatment and acquiring of social skills.

Admonition and guidance are pronounced when such measures are required to influence the character and behaviour of the juvenile.

Increased supervision measures are pronounced when education and development of a juvenile require measures of longer duration under relevant qualified supervision and assistance, without separation from the current environment.

Institutional educational measures are pronounced to a juvenile requiring rehabilitation, medical treatment and acquiring of social skills of longer duration with complete separation from his current environment, aimed at increased influence on the juvenile. Institutional measures are pronounced as a last resort and may last, within the limits set forth under this Act, only as long as necessary to achieve the purpose of the educational measures.

Choice of Educational Measure

Article 12

In selecting the educational measure the Court shall particularly take under deliberation the age and maturity of the juvenile, other aspects of his/her character and degree of deviation in social behaviour, gravity of the offence, motives for committing the offence, living circumstances and environment of the juvenile, his/her behaviour following the commission of the offence, particularly whether he/she prevented or attempted to prevent occurrence of damaging results, compensated or attempted to compensate for the damage caused, whether the juvenile has any prior criminal or misdemeanour conviction, as well as all other circumstances of relevance for pronouncement of such measure that would best serve to achieve the purpose of educational measures.

Admonition by the Court

Article 13

Admonition by the Court is ordered if it may be concluded from the attitude of the juvenile to the committed offence and his readiness to refrain from committing criminal offences in the future, that an admonition is sufficient.

When pronouncing an admonition the Court shall point out to the juvenile the inadmissibility of his action and demonstrate that other sanctions may be pronounced in the event of reoffending.

Alternative Sanctioning

Article 14

The Court may order one or more alternative sanctioning measures to the juvenile if, according to the Court's assessment, relevant demands or bans are necessary to influence the juvenile and his behaviour.

The Court may order the juvenile: 10) Not to leave his place of permanent or temporary residence unless guardianship authority or

- 1) To apologise to the injured party;
- 2) To compensate for the damages caused, within his personal capacity;
- 3) To regularly attend classes and work;
- 4) To qualify for an occupation commensurate with his abilities and talents;
- 5) To participate, without remuneration, in the work of humanitarian organisations or perform community work of social, local or environmental character;
- 6) To involve in particular sports activities;
- 7) To undergo relevant checkups and drug and alcohol treatment programs;
- 8) To participate in individual or group therapy in relevant institution or counselling centres and to act in accordance with work programs created for him in these institutions;
- 9) To attend vocational training classes or to prepare for the exams in a designated field of study;

the Court grants him special permission to leave;

When selecting particular alternative sanctions the Court shall particularly take into consideration that these conform to the character of the juvenile and his living circumstances, and/or will recognise his readiness to cooperate in their achievement;

Alternative sanctioning referred to in paragraph 2, item 3 and 4, and items 6 through 10 of this Article may be ordered for a duration of up to one year, with the proviso that while in force the Court may vary or suspend their enforcement;

Within the scope of requirements specified in paragraph 2, item 2 of this Article , the Court shall determine the amount and manner of compensating the damages through the work of the juvenile that may not exceed 60 hours during three months duration of this alternative sanction, but in such a way that will not interfere with schooling or employment of the juvenile.

Within the scope of requirement specified in paragraph 2, item 5 of this Article , the juvenile may work at most 120 hours during a period up to six months, which is maximum duration of this alternative sanction, but such work may not interfere with his schooling or employment.

The Court shall supervise compliance with alternative sanctioning and may request a relevant report and opinion of the guardianship authority.

When ordering this educational measure, the Court shall warn the juvenile that in the event of failure to comply with one or more alternative sanctions, these may be substituted with another alternative sanction, i.e. educational measure.

Increased Supervision by Parent, Adoptive Parent or Guardian

Article 15

The Court may order measures of increased supervision by parent, adoptive parent or guardian if the parents, adoptive parent or guardian are delinquent in providing necessary care and supervision of the juvenile, and are capable of providing such care and supervision and this may be reasonably expected of them.

This measure may last from minimum six months to maximum two years, and the Court may subsequently decide on its termination.

When the Court orders the measure specified in paragraph 1 of this Article , it shall issue the parents, adoptive parent or guardian necessary instructions and shall order particular duties to be undertaken for education of the juvenile, his medical treatment and elimination of harmful influences on him.

In ordering the measure specified in paragraph 1 of this Article , the Court shall stipulate that the guardianship authority monitors its enforcement and extends assistance to the parent, adoptive parent or guardian.

Increased Supervision in a Foster Family

Article 16

If the juvenile's parent, adoptive parent or guardian are unable to exercise supervision over him or if this cannot be reasonably expected of them, the juvenile shall be placed in a foster family willing to accept him and that has the ability to exercise increased supervision over the juvenile.

In ordering this measure the Court shall stipulate that the guardianship authority inspects its enforcement and extends assistance to the foster family where the juvenile is placed.

The measure of increased supervision in a foster family may last for minimum six months and maximum two years, and the Court shall subsequently decide on its termination. Enforcement of this measure shall be suspended when the juvenile's parents, adoptive parent or guardian acquire the capacity to exercise

increased supervision or when pursuant to results achieved by the measure the need for increased supervision ceases.

Increased Supervision by Guardianship Authority

Article 17

If the juvenile's parents, adoptive parent or guardian are unable to exercise increased supervision and placement in a foster family is unfeasible, the juvenile shall be placed under supervision of a welfare authority.

This measure may have duration of minimum six months to maximum two years and the Court may subsequently decide on its termination.

For the duration of this measure the juvenile remains with his parents or other persons caring for him and supporting him, and increased supervision shall be exercised by a particular official of the social guardianship authority or other qualified person appointed by the guardianship authority.

The guardianship authority shall take care of the juvenile's education, his employment, separation from harmful environment, necessary medical treatment and consolidation of his living circumstances.

Increased Supervision with Daily Attendance in Relevant Juvenile Rehabilitation and Educational Institution

Article 18

The Court may order the educational measure of increased supervision with daily attendance in relevant juvenile rehabilitation and educational institution together with another relevant educational measure of increased supervision if assistance of qualified personnel from a specialised institution engaged in rehabilitation and education of juveniles is required.

This measure may last for minimum six months to maximum two years and the Court may subsequently decide on its termination.

For the duration of this measure the juvenile remains under care of his parents or other persons appointed to take care of the juvenile, and shall spend a certain period during the day in a juvenile rehabilitation and education institution, which should not interfere with his schooling or employment. Through adequate rehabilitation and education curricula such institution shall influence future lifestyle and behaviour of the juvenile within the wider community. The guardianship authority shall supervise daily attendance.

Alternative Sanctioning Together with Increased Supervision Measures

Article 19

The Court may order one or more alternative sanctions referred to under Article 14, paragraph 2 hereof together with the educational measure of increased supervision.

Article 14, items 4, 5 and 6 hereof shall apply to duration of alternative sanctioning that may be ordered together with the measure of increased supervision, while the Court may amend or suspend the ordered measures during the said period.

When ordering the alternative sanctions the Court shall particularly inform the

juvenile and his parents, adoptive parent or guardian that any breach of these sanctions may be substituted by another educational measure.

Remand to Educational Institution

Article 20

The Court shall order remand to an educational institution when juvenile needs to be separated from the current environment and assistance and permanent supervision by qualified personnel have to be provided.

The juvenile is remanded to an educational institution for a minimum of six months and maximum two years, and every six months the Court shall reconsider whether grounds for suspension of enforcement of this measure or its substitution with another educational measure exist.

Remand to a Correctional Institution

Article 21

The Court shall order remand of a juvenile to a correctional institution when, in addition to separation from current environment, increased supervision measures and specialised professional educational programs have to be applied.

In deliberating whether to order this measure the Court shall particularly take into account previous lifestyle of the juvenile, degree of personal and behavioural deviation, gravity and nature of the committed criminal offence and previous criminal or misdemeanour records of the juvenile.

The juvenile shall remain in the correctional institution for minimum six months and maximum four years, and every six months the Court shall reconsider whether grounds for suspension of enforcement of this measure or its substitution with another educational measure exist.

Probation on Remand to an Educational or Correctional Institution

Article 22

The Court may release on probation a juvenile who has spent a minimum of six months in an educational or correctional institution if according to success achieved in rehabilitation it may be reasonably expected that he will refrain from committing criminal offences in future and will conform to good behaviour in his future community.

For the duration of probation the Court may order an increased supervision measure with possible inclusion of one or more alternative sanctioning measures referred under Article 14 hereof.

Probation may have a maximum duration until expiry of the term of remand to educational or correctional institution if the Court has not previously suspended enforcement of the educational measure or substituted it by another.

If the juvenile commits a new criminal offence while on probation or if the ordered increased supervision measure does not achieve its objective or if the juvenile breaches the alternative sanctions ordered with the increased supervision measure, the Court may revoke probation. Time spent on probation shall not be calculated as time of statutory duration of the ordered educational

measure.

Remand to a Special institution for Treatment and Acquiring of Social Skills

Article 23

Instead of remand to an educational or correctional institution, the Court may commit a juvenile with physical or mental disability to a special institution for medical treatment and acquiring of social skills.

This measure is pronounced instead of mandatory psychiatric treatment and confinement in a health institution (Article 81 of the CC of the Republic of Serbia), if confinement and treatment of a juvenile may be provided in a special institution for medical treatment and acquiring of social skills and thus achieve the purpose of this security measure.

If the educational measure is ordered pursuant to paragraph 1 of this Article , the juvenile may remain in the institution for treatment and acquiring of social skills for a maximum of three years, and the Court shall reconsider the grounds for suspension of this measure or its substitution by another measure every six months.

If this measure is ordered instead of a security measure, the juvenile shall remain in the special institution for treatment and acquiring of social skills as long as necessary, and upon reaching twenty one years of age enforcement of the measure shall continue in an institution for enforcement of the security measure of mandatory treatment and confinement.

Suspension of Enforcement and Substitution of the Ordered Educational Measure by another Educational Measure

Article 24

If following the disposition ordering a special requirement measure, increased supervision measure or institutional measure, circumstances arise that were not present or were not known at the time of disposition and which would significantly affect the choice of educational measure, or if the order cannot be enforced due to declining of the juvenile or his parents, adoptive parent or guardian to comply with the ordered measure or instructions of the enforcement authority, or if other circumstances arise provided by law which would have a bearing on the disposition, the Court may suspend enforcement or substitute the ordered measure by another measures of the same kind.

In addition to cases specified in paragraph 1 of this Article , enforcement of alternative sanctions, increased supervision measures or institutional measures may be suspended due to achieved progress in education, or may be substituted by another measure of the same kind that would better achieve the purpose of educational measures, provided that:

- 1) Enforcement of the measure of remand to an educational institution may not be suspended prior to expiry of a six month period, and until expiry of this period it may be substituted by the measure of increased supervision with daily attendance in relevant juvenile rehabilitation and educational institution, remand of juvenile to a correctional institution or special institution for treatment and acquiring of social skills;
- 2) Enforcement of the measure of remand to a correctional institution may not

be suspended prior to expiry of a six month period, and until the aforesaid period expires it may be substituted by remand of juvenile to an educational institution or special institution for treatment and acquiring of social skills.

Reconsideration of Educational Measures

Article 25

If more than six months have passed from the effective date of the disposition ordering any alternative sanctioning measure or increased supervision measure, or if more than one year has passed from the effective date of the disposition ordering an institutional measure, and enforcement thereof has not commenced, the Court shall reconsider the need to enforce the ordered measure. The Court may decide to enforce, not to enforce or substitute the previously ordered measure by another measure.

Ordering of Educational Measure for Joinder of Criminal Offences

Article 26

If a juvenile commits a joinder of criminal offences and the Court decides to order educational measures, all offences shall be deliberated cumulatively and only one educational measure shall be ordered, except in cases stipulated by Article 19, paragraph 1 hereof.

The Court shall act accordingly if it determines postfactum that the juvenile has committed another criminal offence before or after ordering of the measure.

Disclosing of Information On Ordered Educational Measures

Article 27

Information on ordered educational measures may only be disclosed to the Court, the state prosecution and guardianship authority.

No information shall be disclosed on ordered educational measures relating to criminal offences punishable by a fine or imprisonment up to three years if the person to whom such information relates has reached twentyone years of age.

4. Juvenile Prison Sentence

Punishment of Elder Juveniles

Article 28

An elder juvenile who committed a criminal offence punishable by imprisonment of over five years may be sentenced to juvenile prison if due to high degree of guilt, nature and gravity of the offence an educational measure would not be appropriate.

Juvenile Prison

Article 29

Juvenile detention may not last less than six months or more than five years and shall be pronounced in full years and months. Juvenile detention of up to ten years may be pronounced

for criminal offences carrying a statutory punishment of twenty years imprisonment or more severe punishment or in case of joinder of at least two criminal offences punishable by more than ten years imprisonment.

Determining the Length of Juvenile Prison Sentence

Article 30

The Court shall determine the length of juvenile detention sentence within the constraints set forth under this Act, keeping in mind the purpose of juvenile detention and having regard to all circumstances affecting the length of sentence (Article 54 of the CC), and particularly the maturity of the juvenile and the time required for his education and for acquiring vocational skills.

The Court may not sentence an elder juvenile for a particular criminal offence to a term of juvenile prison exceeding the maximum penalty imposed by law for such offence, however, the Court is not bound to apply the lowest statutory punishment.

Determining the Length of Juvenile Prison Sentence for Joinder of Offences

Article 31

If an elder juvenile commits a joinder of several criminal offences and the determination of the Court is that each should be punished by a juvenile prison sentence, the Court shall at its discretion impose a single sentence for all offences within the constraints defined in Article 29 hereof.

If the Court finds that in joinder of criminal offences an elder juvenile should be punished for one of them and an educational measure ordered for the other criminal offences, the Court shall pronounce a single penalty of juvenile prison for joinder of all offences.

The Court shall also proceed in the manner set forth in paragraphs 1 4 of this Article in the event it determines postfactum that the convicted person committed another criminal offence prior to or after sentencing.

Release on Probation From Juvenile Prison

Article 32

The Court may release on probation a person sentenced to juvenile prison if that person has served one third of the sentence, but not before elapse of six months, if pursuant to achieved success in respect of enforcement it may be reasonably expected that he will be of good behaviour upon release and will refrain from committing criminal offences. The Court may order placing on probation subject to one of the measures of increased supervision and one or more relevant alternative sanctions specified in Article 14 hereof.

Relevant provisions of the Criminal Code and Article 144, paragraph 4 hereof shall accordingly apply to revoking of probation.

Limitation of Enforcement of Juvenile Prison Sentence

Article 33

A juvenile detention sentence may not be enforced if:

- 1) Ten years have passed from conviction to a term of juvenile detention exceeding five years;
- 2) Five years have passed from conviction to a term of juvenile detention exceeding three years;
- 3) Three years have passed from conviction to a term of juvenile detention up to three years.

Disclosing Information on Juvenile Prison Sentences From the Criminal Records

Article 34

Information on conviction to juvenile detention may not be disclosed to anyone, except in cases stipulated by Article 102 of the Criminal Code.

Suspension of Educational Measure Due to Conviction to Juvenile Detention or Prison

Article 35

If during a educational measure the Court convicts an elder juvenile to juvenile detention, the educational measure shall discontinue when the convicted person commences serving the sentence.

If during an educational measure the Court convicts a person of legal age to juvenile detention or prison term of minimum one year, the educational measure shall discontinue when the convicted person commences serving the sentence, and if the person is convicted to a term in juvenile detention or prison of lesser duration, the Court shall set forth in the verdict whether the educational measure shall continue or be suspended after release.

Effect of Educational measures and Juvenile Prison Sentence

Article 36

Educational measures and juvenile detention shall not ensue in legal consequences comprising ban on acquiring particular rights (Article 95 of the CC).

A person under enforcement of an institutional educational measure as well as a person serving a juvenile detention sentence may not for the duration thereof perform elective function in government bodies, bodies of territorial autonomy, local selfgovernment, management bodies or other bodies of an enterprise or organisation conducting business with government property, and/or organisations entrusted by law to exercise particular public authority.

Records on Ordered Educational Measures and Juvenile Prisons Sentences

Article 37

The Court adjudicating in the first instance shall maintain records on ordered educational measures and juvenile detention sentences.

The manner of keeping records shall be defined by a separate act.

Rehabilitation in Case of Juvenile Prison Sentence

Article 38

Provisions on rehabilitation set forth by Article s 97100 of the Criminal Code shall be applied accordingly to juveniles sentenced to juvenile prison.

5. Application of Security Measures

Ordering Security Measures to Juveniles

Article 39

Security measures may be ordered to juveniles if they are sentenced to educational measure

or juvenile detention.

The security measure of mandatory treatment of alcoholics and the measure of mandatory treatment of drug addicts may not be ordered together with admonition and guidance measures.

The security measure of mandatory psychiatric treatment and confinement in a medical institution may be ordered separately.

6. Application of Juvenile Provisions to Adults

Ordering Criminal Sanctions to Adults for Acts Committed as Juveniles

Article 40

A person of legal age who is over twentyone years may not be tried for a criminal offence committed as a younger juvenile.

A person of legal age who committed a criminal offence as a juvenile and who at time of trial is not yet twentyone years old, may be ordered a relevant educational measure (alternative sanctioning measure, measure of increased supervision by guardianship authority or remand to correctional institution), and under provisions specified in Article 28 hereof – remand to juvenile detention facility. In deliberating if or which of the above sanctions will be ordered, the Court shall regard all circumstances of the case, and particularly the gravity of the offence, time elapsed from its commission, character and behaviour of the offender as well as the purpose to be achieved by the sanction.

Notwithstanding the provisions of paragraph 2 of this Article, the Court may pronounce to a person of legal age who attained twentyone years of age during trial, a prison sentence or suspended sentence. The prison sentence, in this case, shall have the same legal effects in respect of rehabilitation, erasing of conviction, limitations, parole and legal consequences as punishment by juvenile detention.

In addition to the ordered sanction, adults specified under paragraphs 2 and 3 of this Article may be ordered appropriate security measure under conditions stipulated by this Act.

Ordering Educational Measures to Young Adults

Article 41

The Court may pronounce to an offender who committed a criminal offence as an adult but at time of trial is under twentyone years of age any of the alternative sanctions, the measure of increased supervision by guardianship authority or remand to correctional institution if, due to the character and circumstances under which the offence was committed, it may be expected that these educational measures will achieve the same purpose as punishment.

The Court may order, under terms set forth in this Act, any security measure to a young adult under educational measure.

JUDICIAL AUTHORITIES AND JUVENILE CRIMINAL PROCEEDINGS

1. COMPETENT AUTHORITIES FOR ADJUDICATION

Article 42

First instance proceedings against a juvenile are conducted before a Juvenile judge and Juvenile Court bench of the District Court.

The juvenile bench in the first instance Court shall comprise a Juvenile judge and two lay judges of different sex as a rule. The Juvenile judge presides the bench.

The Juvenile judge of the first instance Court conducts preparatory proceedings and performs other tasks in juvenile proceedings.

Article 43

The juvenile bench of the higher Court, comprised of three judges shall have second instance jurisdiction. It is established by work allocation schedule of that Court.

The juvenile bench in composition provided under paragraph 1 of this Article shall rule on appeals against the disposition of the juvenile bench of the first instance Court, on appeals against the decisions of the Juvenile Public Prosecutor and Juvenile judge in cases provided under this Act, and when disposition shall be made by a juvenile bench of a higher Court in cases set forth by this Act.

When the juvenile bench sits in trial it shall comprise two judges and three lay judges.

Article 44

A Juvenile judge and juvenile bench judges must be persons who have acquired special qualifications in the field of the rights of the child and juvenile delinquency.

Lay judges are elected from the ranks of teachers, professors, educators and other qualified persons experienced in work with children and youth.

Article 45

The Court on the territory of permanent residence of the juvenile shall have, as a rule, jurisdiction in proceedings against him, and if the juvenile does not have any or has no known permanent residence – the Court of the juvenile's temporary residence will have jurisdiction. The proceedings against a juvenile with permanent address may be conducted before the Court of the juvenile's temporary residence or the Court competent on the territory where the criminal offence was committed and/or the Court competent on the territory of the institution for enforcement of criminal sanctions, where the juvenile is serving his sentence, if it is evident that the proceeding would be conducted more easily before such Court.

JUVENILE CRIMINAL PROCEEDINGS

General provisions

Article 46

The provisions of this Act shall apply in proceedings against persons under reasonable suspicion of committing a criminal offence as juveniles and who at the time of commencement of proceedings have not reached twentyone years of age.

Provisions of Article s 48 through 50, 53 through 56, Article s 64 and 66, Article 68, paragraph 1 and Article s 75 and 76 hereof shall apply in proceedings against a young adult if, prior to commencement of the main hearing and based on character examination of such person, it is determined that an educational measure specified in Article 41 hereof may be ordered.

Article 47

If the Juvenile Public Prosecutor determines that the person against whom criminal charges have been filed or the injured party filed a motion for initiating proceedings, is under fourteen years of age at the time of commission of the criminal act, he shall reject criminal charges or the motion of the injured party, and shall deliver decision on rejection to the guardianship authority for further action within its purview.

If the Court determines during the proceeding that at the time of commission of the criminal

offence the juvenile was under fourteen years of age, criminal proceedings shall be discontinued and relevant disposition delivered to the guardianship authority for further action within their purview.

Article 48

A juvenile may not be tried in absentia.

When undertaking actions in presence of the juvenile, and particularly during his questioning, participants in the proceeding are required to exercise due care having regard to maturity, other personal traits and protection of privacy of the juvenile, so that conducting of criminal proceedings would not have a detrimental effect to his development.

Article 49

A juvenile shall have defence counsel during the first questioning and throughout the proceedings.

If the juvenile, his legal representative or relatives fail to retain counsel, such counsel shall be appointed ex officio by the Juvenile judge.

Counsel for the juvenile may be only an attorney with special qualification in the field of the rights of the child and juvenile delinquency.

Article 50

No one may be released from duty to testify on circumstances required to evaluate the maturity of a juvenile, assess his character and his living circumstances.

Article 51

If a minor participated in commission of a criminal offence together with an adult, he shall be tried separately under provisions of this Act.

A proceeding against a juvenile may be joined with proceeding against an adult and conducted in accordance with general provisions of the Criminal Procedure Code only if joinder of proceedings is necessary by reason of comprehensive clarification of the subject matter. An order to that effect shall be passed by the juvenile Court bench of the District Court. This order may not be appealed.

When joined proceedings are conducted for both juvenile and adult offenders, provisions of Article s 4850, 5356, 64, 66, 68, paragraph 1, 75 and 76 hereof shall always be applied to juveniles in determination of issues at the trial related to the juvenile, as well as Article s 78 and 79, including other provisions of this Act if not in contravention with conducting joined proceeding.

Article 52

When there are reasonable grounds to suspect that a person has committed a criminal offence as a juvenile, and some other offence as an adult, a single proceeding shall be conducted, as a rule, before a bench adjudicating juveniles, if such person at time of initiation of the trial has not reached twentyone years of age.

Article 53

In juvenile proceedings, in addition to the powers explicitly provided under this Act, the guardianship authority shall be entitled to be informed about the course of the proceedings and to make suggestions during proceedings and indicate facts and evidence of importance for appropriate disposition.

The Juvenile Public Prosecutor shall notify the relevant guardianship authority of any proceedings instituted against a juvenile.

If the Juvenile Public Prosecutor fails to notify the relevant guardianship authority of proceedings instituted against a juvenile, it shall be done so by the Juvenile judge who shall append with the report a copy of the Juvenile Public Prosecutor's request for preliminary

proceeding, in terms of Article 64 hereof.

Article 54

A juvenile is summoned through his parents and/or legal guardian, unless this is unfeasible due to need for exigent action or other circumstances.

The order to bring in terms of Article 135 of the Criminal Procedure Code is exercised against the juvenile by law enforcement officer in civilian clothes, with regard to do so in an unobtrusive manner.

Orders and other submissions are delivered to the juvenile pursuant to provisions of Article 162 of the Criminal Procedure Code, under the proviso that submissions may not be delivered to a juvenile by posting them on the Court notice board, nor shall provisions of Article 158 paragraph 2 of the Criminal Procedure Code be applicable.

Article 55

No publication of the course of juvenile criminal proceeding or the disposition of such proceeding will be allowed without permission of the Court.

Only that part of the proceeding and/or that part of the disposition may be published for which a permission exists, but in such cases the name of the juvenile or other data identifying the juvenile may not be stated.

Article 56

Bodies involved in juvenile proceedings and any other body or institution requested to supply information, reports or opinions shall do so without delay in order to conclude the proceeding speedily.

Initiating of proceeding

Article 57

A criminal proceeding against a juvenile is instituted for all criminal offences only at the motion of the Juvenile Public Prosecutor with special qualifications in the field of the rights of the child and juvenile delinquency.

Criminal offences prosecuted at the motion or private suit may be instituted if the injured party files a motion to prosecute with the competent Juvenile Public Prosecutor within the deadline provided in Article 53 of the Criminal Procedure Code.

If the Juvenile Public Prosecutor does not file a request to institute proceedings against a juvenile, he shall so notify the injured party within eight days. The injured party may not undertake criminal prosecution but is entitled, within eight days of receiving the notification from the Juvenile Public Prosecutor, and if not notified then within three months from the day criminal charges or the motion specified in paragraph 2 of this Article were rejected, to request that the juvenile Court bench of a higher Court rules on initiating of proceeding.

Article 58

For criminal offences punishable by up to five years imprisonment or a fine, the Juvenile Public Prosecutor may decide not to press charges although evidence exists giving rise to reasonable suspicion that the juvenile had committed a criminal offence, if in his opinion it would not be appropriate to prosecute the juvenile due to the nature of the criminal offence and circumstances under which it was committed, his previous living circumstances and personal characteristics. On order to determine these circumstances the Juvenile Public Prosecutor may request information from the juvenile's parents, adoptive parent or guardian, other persons or institutions and, when necessary, may summon these persons and the juvenile to directly give information. He may request the opinion of the guardianship authority on the purpose to be served by prosecuting the juvenile, and may delegate collection of such information to a

professional (social worker, psychologist, pedagogue, specialist pedagogue etc) if there is any with the Public Prosecution Office.

If the decision referred to in paragraph 1 of this Article requires examination of personal characteristics of the juvenile, the Juvenile Public Prosecutor may, in agreement with the guardianship authority, remand the juvenile to an institution for examination of character, to a youth home or educational institution, for up to thirty days.

During enforcement of penalty or educational measure, the Juvenile Public Prosecutor may decide not to press charges for another criminal offence committed by the juvenile, if due to gravity of such offence as well as the sentence or educational measure being served, conducting of proceeding and pronouncing a criminal sanction for that offence would serve no purpose.

When in cases specified in paragraphs 1 and 3 of this Article, the Juvenile Public Prosecutor assesses that it is not pertinent to initiate proceedings against the juvenile, he shall so notify within eight days from the day of receipt of the information, explaining the reasons, the guardianship authority and the injured party, who may, within eight days, request the juvenile Court bench of a higher Court to rule on institution of proceedings in terms of Article 57. paragraph 3 hereof. The injured party and the guardianship authority may file such request within three months from the date of rejecting criminal charges and/or the motion of the injured party to initiate proceedings, if not notified of the decision not to initiate proceedings. The Juvenile Public Prosecutor shall also notify the law enforcement authority of the decision not to initiate proceedings, if such authority had filed criminal charges.

Article 59

Disposition in cases specified in Article 57, paragraph 3 and Article 58, paragraph 4 hereof shall be made by the juvenile Court bench of a higher Court sitting in session after obtaining the case file from the Juvenile Public Prosecutor. The Juvenile Public Prosecutor shall be invited to attend the session.

The juvenile Court bench may decide not to initiate proceedings or to initiate proceedings before a Juvenile judge. The decision of the juvenile Court bench may not be appealed.

When the bench decides to institute proceedings against the juvenile before the Juvenile judge, the Juvenile Public Prosecutor shall have to participate in such proceedings.

Article 60

In obtaining information from a juvenile the law enforcement officer shall proceed in terms of Article 226, paragraphs 1, 3, 4, 5, 6 and 10 of the Criminal Procedure Code, and shall do so in the presence of the juvenile's parents, adoptive parent or guardian. Information is collected by a juvenile police officer. A juvenile police officer is a person who has acquired special skills in the field of the rights of the child and juvenile delinquency.

Article 61

A juvenile may not be detained in terms of Article 229 of the Criminal Procedure Code.

Article 62

The Juvenile Public Prosecutor may subject the decision not to prosecute specified in paragraph 58, paragraph 1 hereof, to consent of the juvenile and his parents, adoptive parent or guardian, as well as readiness of the juvenile to accept one or more diversion orders specified in Article 7, paragraph 1 through 3 hereof.

In selecting particular diversion orders, the Juvenile Public Prosecutor shall take particular regard of their congruence with the character of the juvenile and circumstances under which he is living, taking into account his readiness to cooperate in their implementation.

Enforcement of diversion order referred to under Article 7, paragraph 1 hereof requires agreement of the injured party.

If the juvenile fully complies with the accepted diversion order, which shall be reported by the guardianship authority, the Juvenile Public Prosecutor issues a decision on rejecting criminal charges and/or the motion of the injured party to initiate proceedings.

The Juvenile Public Prosecutor may reject charges and/or motion of the injured party to institute proceedings against the juvenile also if the juvenile complies in part with the accepted diversion order when in his deliberation, due to the nature of the criminal offence and circumstances of its commission, the previous behaviour of the juvenile, his character and reasons for failure to fully comply with the ordered recommendation, it would not be pertinent.

If the juvenile fails to comply with the accepted diversion orders or complies only partially to a degree that does justify initiating of proceeding, the Juvenile Public Prosecutor files a motion with the Juvenile judge of the competent Court to initiate preparatory proceeding.

The Juvenile Public Prosecutor shall notify the injured party of rejecting of the criminal charges and/or the motion of the injured party who shall not be entitled to request initiating of proceedings.

When a juvenile makes full restitution of damages resulting from the criminal offence, the injured party shall not be entitled to exercise his property claim, and if damages were compensated in part, the injured party may exercise his property claim in Court action.

Preparatory proceeding

Article 63

The Juvenile Public Prosecutor files a motion to initiate preparatory proceeding with the Juvenile judge of the competent Court. If the Juvenile judge disagrees with the motion, he shall request a relevant decision from the juvenile Court bench of a superior Court.

A Juvenile judge may delegate law enforcement authority with enforcement of a search warrant for premises and temporary seizure of objects as provided under the Criminal Procedure Code.

Article 64

In preparatory proceeding against the juvenile, in addition to facts relating to the criminal offence, the Court shall particularly determine the age of the juvenile, facts necessary for evaluation of his maturity, his living environment and circumstances, and other relevant facts relating to his character and behaviour.

The juvenile's parents, adoptive parent or guardian and other persons who may offer relevant information will be questioned to determine these circumstances. The Juvenile judge may delegate collecting of this information to a qualified associate of the Court (social worker, psychologist, pedagogue, special pedagogue etc) if any.

On circumstances specified in paragraph 1 of this Article the Court shall always obtain the opinion of the guardianship authority, and when an institutional educational measure had been ordered to a juvenile, it shall obtain a report from the institution on the results of enforcement of the ordered measure.

When the state of health, degree of maturity and other aspects of the juvenile's character require examination of Court expert witnesses, this examination shall be carried out by medical practitioners, psychologist or pedagogues. Such examinations of a juvenile may be carried out in a health or other institution.

Article 65

The Juvenile judge alone decides on the manner of conducting particular actions, having regard to provisions of this Act and the Criminal Procedure Code to a degree ensuring the rights of the accused to defence, the rights of the injured party and collecting of evidence required for deliberation.

Questioning of the juvenile during preparatory proceeding must be attended by the Juvenile Public Prosecutor, juvenile defence counsel and the juvenile's parent, adoptive parent or guardian. If necessary, these persons shall attend other actions during preparatory proceeding. The Juvenile judge may order the juvenile to retreat when particular actions are undertaken.

The Juvenile judge may exclude attendance of parents, adoptive parent or guardian if such decision is in the interest of the juvenile.

Questioning of the juvenile, when appropriate, shall be conducted with the assistance of a psychologist, pedagogue or other professional. The Juvenile judge may allow attendance of the guardianship authority representative in preparatory proceeding. If such person is in attendance, he may put motions and direct questions to the person being questioned.

Article 66

During preparatory proceeding the Juvenile judge may remand a juvenile to a home, educational or similar institution, under supervision of a guardianship authority or placement in foster family on temporary basis (hereinafter: temporary placement measure) if this is necessary to separate the juvenile from his current environment or to provide assistance, supervision, protection or accommodation for the juvenile.

The decision referred to under paragraph 1 may be appealed within twenty four hours by the juvenile, parent, adoptive parent or guardian, defence counsel and Juvenile Public Prosecutor. The appeal shall not stay enforcement of the decision.

The costs of accommodation of the juvenile are payable in advance from budgetary funds and comprise part of the costs of criminal proceeding.

Article 67

Exceptionally, the Juvenile judge may remand the juvenile to detention when grounds exist specified under Article 142, paragraph 2 of the Criminal Procedure Code, if the purpose for ordering detention cannot be achieved by temporary placement measure specified in Article 66, paragraph 1 of hereof.

Time spent in detention, as well as any other deprivation of liberty, shall be counted as integral part of the ordered educational measure of remand to an educational institution, correctional facility and juvenile prison pursuant to Article 63 of the Criminal Code.

On grounds of the detention order issued by the Juvenile judge, detention in preparatory proceeding may not exceed one month.

The juvenile Court bench of the same Court may, on justifiable grounds, extend detention for maximum one more month.

Following conclusion of preparatory proceeding and from the moment of filing a motion for pronouncing of criminal sanction, detention of an elder juvenile may not exceed six months, and four months for a younger juvenile.

From the moment of ordering an educational measure of remand to a correctional facility, and pronouncing a juvenile prison sentence, detention of a juvenile may not exceed six months.

In cases of extended detention under paragraphs 5 and 6 of this Article , juvenile bench is required to review once a month whether grounds for detention exist, and to pronounce a decision on either suspending or extending the detention.

Provision of Article 146 of the Criminal Procedure Code shall accordingly apply to all other issues relating to juvenile detention.

Article 68

A juvenile shall be held in detention separately from adults. Exceptionally, a Juvenile judge may order a juvenile to be remanded in detention together with an adult, who would not have a detrimental effect on him, while in the opposite case, juvenile solitude would last longer, and would be harmful to his personal development.

A Juvenile judge shall have the same competencies in respect of detained juveniles as provided under the Criminal Procedure Code to an investigative judge in respect of adult detainees, but shall have particular regard for the character and needs of every juvenile detainee.

Article 69

After investigating all circumstances relating to commission of the criminal offence, maturity and other factors related to the personal and living circumstances of the juvenile, the Juvenile

judge shall deliver the case file to the competent Juvenile Public Prosecutor who may, within eight days, move to supplement the preparatory proceeding or file an explained recommendation to the juvenile Court bench to pronounce criminal sanction.

The recommendation of the Juvenile Public Prosecutor shall include: full name of the juvenile, his age, description title and legal designation of the offence, evidence proving that the juvenile has committed a criminal offence, explanation which should include evaluation of apparent maturity of the juvenile, personal characteristics and recommendation to pronounce criminal sanctions against the juvenile.

Article 70

If during preparatory proceeding or upon conclusion thereof the Juvenile Public Prosecutor finds that there are no grounds to prosecute the juvenile or that there are grounds specified in Article 58, paragraph 1 and 3 hereof, he shall submit a motion to the Juvenile judge to discontinue proceedings. The Juvenile Public Prosecutor shall also notify the guardianship authority of the decision to discontinue proceedings which shall, in the event of disagreement with the motion of the Juvenile Public Prosecutor, accordingly notify the Juvenile judge within eight days from the day of receiving the notification of the Juvenile Public Prosecutor.

If the Juvenile judge disagrees with the motion of the Juvenile Public Prosecutor he shall request, within three days, a relevant ruling from the juvenile Court bench of a higher Court. The juvenile Court bench shall issue its decision upon questioning of the relevant Juvenile Public Prosecutor. The Juvenile judge shall also apply the same procedure when only the guardianship authority disagrees with the motion of the Juvenile Public Prosecutor.

Provision of Article 59, paragraph 3 hereof shall apply also when the juvenile Court bench fails to sustain the motion of the Juvenile Public Prosecutor to discontinue proceeding.

The juvenile Court bench may rule to issue the decision to discontinue proceeding against a juvenile in accordance with provision of Article 71 hereof.

Article 71

The Juvenile Public Prosecutor may file a motion to discontinue proceeding against a juvenile subject to juvenile's acceptance of one or more diversion orders specified in Article 7, paragraph 1, items 1 through 3 hereof.

If the Juvenile judge disagrees with the motion of the Juvenile Public Prosecutor, the juvenile Court bench shall take decision within eight days. The juvenile Court bench may rule to discontinue proceeding against the juvenile if it determines ordering of diversion orders specified in Article 7 hereof inappropriate, and may take a decision in terms of paragraph 3 of this Article . When the juvenile Court bench orders one or more diversion orders specified in Article 7, paragraph 1, items 1 through 5 hereof, supervision of enforcement thereof shall be entrusted to the guardianship authority.

If a Juvenile judge sustains the motion of the Juvenile Public Prosecutor, he shall order the juvenile to comply with one or more diversion orders specified in Article 7 hereof, having regard of their suitability in respect of the juvenile's personal and living circumstances, taking into account the readiness of the juvenile to participate in implementing of diversion orders.

Agreement of the injured party for enforcement of diversion order specified in Article 7, paragraph 1, item 1 hereof is mandatory.

If a juvenile fully complies with the ordered diversion orders, as substantiated by report submitted by the guardianship authority, the Juvenile judge shall issue a decision on discontinuing of proceeding.

If the juvenile fails to comply with ordered diversion order or complies only in part, but to a degree that does justify continuance of proceeding, the Juvenile judge shall accordingly inform the Juvenile Public Prosecutor who shall, within eight days of receiving the notification, file an explained motion in terms of Article 69 hereof. If the Public Prosecutor finds that no grounds exist for further proceeding against the juvenile he shall apply provision of Article 70 hereof.

The Court shall notify the injured party of discontinuing of the proceeding, who shall not be entitled to move to initiate proceeding.

If the juvenile has made full restitution of damages resulting from the criminal offence, the

injured party shall not be entitled to realise their property claim, and if damages were compensated only in part, the injured party may realise their property claim in civil action.

Article 72

A Juvenile judge shall notify the President of the Court every month of the juvenile cases that are not disposed of and of reasons why particular cases are still under proceeding. The President of the Court shall undertake measures to accelerate the proceedings.

Proceeding Before the Juvenile Court Bench

Article 73

On receiving the motion of the Juvenile Public Prosecutor to pronounce criminal sanction, the Juvenile judge schedules a sitting of the bench or the main hearing.

Juvenile prison sentence and institutional measures may be pronounced only after conclusion of the main hearing. Other educational measures may be ordered by sitting of the bench.

Sitting of the bench may order holding of the main hearing.

The juvenile, his parents, adoptive parent or guardian, Juvenile Public Prosecutor, defence counsel and guardianship authority representative shall be summoned to attend the sitting of the bench. There will be mandatory attendance of the Juvenile Public Prosecutor, defence counsel and guardianship authority representative at this sitting. If the Juvenile Public Prosecutor or defence counsel, fail to justify their absence from the sitting of the bench, the President shall accordingly inform the directly superior Public Prosecutor and/or the relevant bar association.

The Juvenile judge shall inform the juvenile of the educational measure ordered at the sitting of the bench.

Article 74

When the juvenile Court bench adjudicates on basis of the main hearing, provisions of the Criminal Procedure Code on preparations for the main hearing, on management of the main hearing, on adjournment and discontinuance of the main hearing, on record of hearing and course of main hearing shall accordingly apply, but the Court may derogate from these rules if their application in the specific case is deemed inappropriate.

In addition to persons specified in Article 285 of the Criminal Procedure Code, juvenile's parents, adoptive parent or guardian and guardianship authority shall be summoned to the main hearing.

Attendance of the Juvenile Public Prosecutor, the juvenile defence counsel and guardianship authority representative at the main hearing, in addition to the juvenile, is mandatory. If the Juvenile Public Prosecutor or defence counsel, fail to justify their absence from the main hearing, the President of the bench shall accordingly inform directly superior Public Prosecutor and/or the relevant bar association.

Provisions of the Criminal Procedure Code on amending and expanding charges shall apply in proceeding against a juvenile, but the juvenile Court bench shall have competence to reach a disposition based on finding of fact at the main hearing even without a motion from the Juvenile Public Prosecutor.

Article 75

Public shall always be excluded from trials of a juvenile.

The bench may allow persons engaged in education and protection of juveniles or suppression of juvenile delinquency to attend the main hearing.

The bench may order all or certain persons to leave the main hearing, except for the Juvenile Public Prosecutor, defence counsel and guardianship authority representative.

During presentation of particular evidence or statements of the parties, the bench may order the juvenile to leave the Courtroom.

Article 76

The President of the bench or the Juvenile Court bench may order during the trial a temporary placement measure in terms of Article 66 hereof, and may revoke a previous order.

Article 77

The Juvenile judge shall schedule the main hearing or sitting of the bench within eight days of receiving the motion of the Juvenile Public Prosecutor. The Juvenile judge requires approval of the President of the Court for any extension of this period.

The main hearing may be adjourned or discontinued only exceptionally. The Juvenile judge shall notify the President of the Court of any adjournment or suspension of the main hearing, stating reasons for adjournment and/or suspension.

The Juvenile judge is required within eight days from the day of publication of decision concluding the proceeding, to draft the verdict and/or decision in writing.

Article 78

The juvenile Court bench shall not be bound by the motion of the Juvenile Public Prosecutor in deliberations of whether to order punishment or educational measures to a juvenile.

The bench shall by decision discontinue proceeding in cases when the Court, pursuant to Article 354, items 2 and 3 of the Criminal Procedure Code brings a verdict rejecting the charges or acquitting the accused of the charges in terms of Article 355 of the Criminal Procedure Code, as well as when in deliberation of the Court it would be inappropriate to order either punishment or educational measure to the juvenile.

The bench shall issue a decision also when ordering an educational measure to the juvenile. Only the ordered measure will be stated in the pronouncement of this decision and will not pronounce the juvenile guilty for the criminal offence he is charged with. The explanation of the decision will state the description of the offence and circumstances justifying ordering of the educational measure.

The disposition pronouncing juvenile prison sentence for the juvenile shall be composed in the form provided under Article 356 of the Criminal Procedure Code.

Article 79

The Court may order the juvenile to pay the cost of criminal proceeding and to make restitution in respect of a property claim only if the Court has pronounced punishment. If an educational measure has been ordered, or the proceeding has been discontinued, costs of the proceeding will be compensated by the budget, and the injured party will be directed to realise a property claim by civil action.

If a juvenile has income or property, the Court may order him to pay the cost of proceeding and make compensation for property claim even when ordering an educational measure, i.e. when the juvenile bench finds that neither juvenile prison sentence nor educational measure would serve the purpose.

Legal Remedies

Article 80

The juvenile imprisonment sentence, a decision ordering an educational measure and decision to discontinue proceedings specified in Article 78, paragraph 2 hereof may be appealed by all persons entitled to appeal the verdict in terms of Article 364 of the Civil Procedure Code within eight days from the date of receiving the verdict and/or decision.

An appeal against the decision ordering an educational measure enforced in a detention facility and/or an institution shall stay enforcement of the decision if the Court, in agreement with the juvenile's parents and following questioning of the juvenile, does not decide otherwise.

The juvenile shall be summoned to attend the sitting of the second instance bench only if the

president of the bench or the bench finds his attendance useful.

Article 81

A second instance bench may overturn the first instance decision by pronouncing more severe measure to the juvenile only if so moved in the appeal.

If the first instance decision does not pronounce a juvenile prison sentence or institution measure, the second instance bench may pronounce such punishment and/or measure only after holding a hearing. A longer juvenile prison or a stronger institutional measure than pronounced in the first instance decision may also be ordered by the sitting of the second instance bench.

Article 82

The motion for protection of legality may be filed both when the decision of the Court violates the law, and in cases when punishment or educational measure has been improperly pronounced against the juvenile.

Article 83

The provisions on retrial when proceedings are concluded by final judgement shall accordingly apply to retrial when proceedings are concluded by final decision ordering an educational measure.

Court Supervision over Enforcement of Measures

Article 84

A Juvenile judge of the Court ordering an educational measure and the Juvenile Public Prosecutor are required to followup the results of enforcement of the educational measure by visiting juveniles remanded in detention facility or institution where the measure is enforced and by direct inspection and review of reports during enforcement of the ordered educational measure.

The competent guardianship authority shall every six months submit to the Court and the Juvenile Public Prosecutor a report on the course of enforcement of other educational measures, and the Juvenile judge may request such report in shorter time periods. The Juvenile judge may order drafting of such report by particular qualified Court assistant (social worker, psychologist, pedagogue, special pedagogue etc), if any.

The management of the prison and/or institution where the educational measure is enforced shall every six months submit a report to the Juvenile judge adjudicating in first instance and the Juvenile Public Prosecutor on the results of enforcement of the measure, and the Juvenile judge may request such report in shorter time periods.

Suspension of Enforcement and Varying the Order on Educational Measure

Article 85

When conditions provided under this Act have been met to vary the order on educational measure in force, the relevant decision shall be made by the first instance Court ordering the educational measure if the Court so determines as necessary, or at the application of the Juvenile Public Prosecutor, the juvenile, his parents, adoptive parent or guardian, superintendent of the detention facility or institution or the guardianship authority entrusted with supervision of the juvenile.

Prior to issuing decision the Court shall question the Juvenile Public Prosecutor, the juvenile, parents, adoptive parent or guardian or other persons and shall obtain necessary reports from the detention facility or institution where the measure is enforced, and/or from the guardianship

authority or other bodies and institutions.

The provisions of paragraphs 1 and 2 of this Article shall also apply to the decision on suspension of enforcement of the educational measure and release on probation specified in Article 22 hereof.

Decisions to suspend, vary the educational measure or release on probation are issued by the juvenile Court bench specified in paragraph 1 of this Article .

The juvenile and his parents, adoptive parent or guardian, the Juvenile Public Prosecutor, defence counsel and the representative of the guardianship authority or the detention facility or institution where the educational measure is enforced shall be summoned to the sitting of the bench and their attendance is mandatory.

APPLICATION OF DIVERSION ORDERS AND ENFORCEMENT OF CRIMINAL SANCTIONS

1. APPLICATION OF DIVERSION ORDERS

Article 86

Separate bylaw shall govern application of diversion orders referred to under Article 7 hereof.

2. BASIC PROVISIONS ON ENFORCEMENT OF CRIMINAL SANCTIONS

Article 87

The provisions on enforcement of criminal sanctions shall apply to juvenile and adult offenders sentenced to an educational measure or juvenile prison and to persons who reach legal age during enforcement of these sanctions.

Article 88

Juveniles under enforcement of criminal sanctions are equal regardless of race, colour, sex, religion, political or other opinion, national, ethnic or social origin, property, birth or other status of the juvenile, his parents, adoptive parent or guardian, as well as other forms of dissimilitude.

Article 89

During enforcement of criminal sanctions the juvenile should be treated in a manner proportionate to his age, apparent maturity and other personal circumstances, with respect to the dignity of the juvenile, encouraging his overall growth and participation in his own resocialisation, adhering to contemporary pedagogical, psychological and penology skills and experience.

A juvenile shall be provided with facilities to acquire primary and secondary vocational education and qualifications, and enabled to freely express and practise his religious beliefs and practices.

Article 90

Juveniles undergoing an institutional educational measure or juvenile prison sentence shall be subjected at least once a year to full medical examination by a proper health institution.

At least twice a year a report shall be made on the psychological state of the juvenile and shall be submitted to the Juvenile judge of the first instance Court exercising supervision and/or inspecting enforcement of criminal sanction referred to in paragraph 1 of this Article .

Article 91

A disciplinary measure of solitary confinement may not be ordered to a juvenile.

Article 92

No firearms shall be allowed within the facility or institution where institutional educational measures or juvenile prison sentences are served.

Article 93

Enforcement of educational measures and juvenile prison sentences is based on individualised program of treatment of the juvenile that is adapted to his character and is in accordance with contemporary achievements of science, pedagogy and penology practice.

Individualised programs are compiled on basis of comprehensive understanding of the maturity and other personal characteristics of the juvenile, his age, education level, previous life and behaviour within the social context, form of behavioural deviation, type of criminal offence and circumstances of its commission.

Individualised programs particularly determine: the maturity of the juvenile, other personal characteristics, feasibility of inclusion into an educational or vocational program, use and organisation of leisure time, work with the juvenile's parents, adoptive parent or guardian and other family members, as well as other forms of psychosocial, pedagogic and penology impact on the juvenile.

Article 94

The cost of enforcement of criminal sanctions against the juvenile shall be provided by the budget.

The juvenile's parent, adoptive parent or guardian and/or other person required by law to support the juvenile, and a juvenile having an income or property, when possible, are liable for part of the cost of enforcement of alternative sanctions, increased supervision in foster family, increased supervision with daily attendance in relevant rehabilitation and educational institution, remand to educational institution, remand to correctional facility and juvenile prison.

The liability for costs of persons referred under paragraph 2 of this Article shall be decided by the sentencing Court of first instance at the recommendation of the Juvenile Public Prosecutor and/or the guardianship authority. If this decision requires extensive investigation of financial status of persons specified in paragraph 2 of this Article, the Court shall first pronounce a decision on criminal sanction, and shall subsequently continue proceeding on determination on the amount of contribution, and shall issue a separate decision accordingly.

Article 95

At the application of a persons specified in Article 94, paragraph 2 hereof, and/or the application of the guardianship authority, foster family, detention facility or institution where the criminal sanction is enforced, the juvenile Court bench of the Court adjudicating in the first instance may by separate decision vary the order on contribution towards the cost of accommodation and meals of the juvenile in a detention facility or institution, and/or costs arising from enforcement of diversion measures, increased supervision in foster family or increased supervision with daily attendance in relevant juvenile rehabilitation and educational institution.

The liability of persons specified in Article 94, paragraph 2 hereof to compensate for expenses of enforcement of criminal sanctions shall last, in respect of such persons, for the duration of their obligation under law to support the juvenile, and in respect of the juvenile – as long as he is able to bear the costs of enforcement of the criminal sanction.

Article 96

When during enforcement of criminal sanction the Juvenile judge determines that facts and circumstances exist indicating the need to undertake measures for protection of the rights of the

juvenile, he shall so inform the competent guardianship authority where the juvenile has permanent or temporary residence.

Article 97

A juvenile who considers to be deprived of certain rights or that these rights are violated, and that other unlawful actions or irregularities have been committed during enforcement of institutional educational measure or juvenile prison sentence, is entitled to file a complaint with the superintendent of the detention facility or institution where such criminal sanction is enforced.

In respect of the complaint the superintendent of the detention facility or institution where the educational measure or juvenile prison sentence is enforced shall, within three days, issue a written decision rejecting the complaint as groundless or finding it fully or partially justified in which case exigent relevant measures shall be undertaken to rectify the committed violations or depriving the juvenile of his rights, and/or other unlawful actions or irregularities. The decision shall contain the instruction on legal remedy.

The juvenile may appeal the superintendent's decision within eight days with the juvenile Court bench of the first instance Court exercising supervision over enforcement of the educational measure and/or the juvenile Court bench of the adjudicating first instance Court which pronounced the juvenile prison sentence.

3. ENFORCEMENT OF EDUCATIONAL MEASURES

1. General Provisions

Article 98

An educational measure is enforced after decision ordering that such measure becomes final, unless otherwise provided under this Act.

The guardianship authority shall have competence to enforce educational measures, unless otherwise provided under this Act.

Article 99

Supervision over enforcement and inspection of enforcement of educational measure is exercised by the Juvenile judge of the Court adjudicating in the first instance.

The first instance Court is required to, pursuant to Court Rules of Procedure, maintain a Record of Control of enforcement of educational measures and keep documents of monitoring and control of their enforcement in accordance with the Rules passed by the Minister of Justice.

Article 100

The Juvenile judge and Juvenile Public Prosecutor shall at least once a year undertake direct supervision and inspection of enforcement of educational measures.

Reports on the course and results of enforcement of these educational measures shall be obtained and delivered in terms of Article 84, paragraph 2 and 3 hereof.

2. Enforcement of Alternative Sanctioning Measures

Article 101

The Juvenile judge of the Court adjudicating in the first instance shall supervise enforcement of alternative sanctioning measures specified in Article 14, paragraph 2 hereof.

Upon request of the Juvenile judge specified under paragraph 1 of this Article, competent guardianship authority is required to submit a report on the course and results of enforcement of the ordered alternative sanctioning measure.

The Juvenile judge may delegate drafting of the report referred to in paragraph 2 of this Article to a qualified associate (Article 64, paragraph 2 hereof).

Enforcement of alternative sanctioning measure specified in Article 14 hereof shall be governed by separate bylaw.

3. Enforcement of Increased Supervision Measures

Increased Supervision by Parents, Adoptive Parent or Guardian

Article 102

Enforcement of educational measure of increased supervision by parents, adoptive parent or guardian shall commence as of the day the Court decision ordering the educational measure is delivered to the juvenile's parents, adoptive parent or guardian.

Article 103

A juvenile's parent, adoptive parent or guardian are obliged to discharge the orders and instructions of the Juvenile judge of the Court adjudicating in first instance and to enable the competent guardianship authority to inspect enforcement of the educational measure and accept the offered assistance aimed towards its enforcement.

The Juvenile judge adjudicating in the first instance of this Article shall adjudicate in any dispute arising between the juvenile's parents, adoptive parent or guardian and the guardianship authority.

Article 104

A juvenile's parent, adoptive parent or guardian and/or the guardianship authority shall notify the Court adjudicating in the first instance on the course and results of enforcement of educational measure within deadlines specified in Article 84, paragraph 2 hereof.

The guardianship authority shall promptly notify the Court of the reasons impeding enforcement of the measure.

Increased Supervision in a Foster Family

Article 105

The educational measure of increased supervision in a foster family is enforced in a family determined by the Court adjudicating in the first instance, and at the recommendation of the guardianship authority to exercise increased supervision over the juvenile.

On receiving the final Court order, previously delivered to the juvenile, the competent guardianship authority directs the juvenile to a family determined by the Court order.

Article 106

The competent guardianship authority and the foster family hosting the juvenile, conclude a contract in writing setting out their mutual rights and obligations.

The foster family shall enable the competent guardianship authority to inspect enforcement of the educational measure and shall accept offered assistance aimed at realising the purpose of the educational measure.

For the duration of this educational measure the juvenile shall keep in touch with his family unless the Court supervising and controlling enforcement of the educational measure does not decide otherwise at the recommendation of the guardianship authority.

Article 107

The Court adjudicating in the first instance proceeding in which the educational measure of increased supervision in a foster family was ordered may ex officio, or at the recommendation of the Juvenile Public Prosecutor or the guardianship authority, order removal of the juvenile to another foster family if the circumstances in the initial foster family alter to a degree impeding enforcement of the educational measure.

Article 108

Provisions of this Act governing enforcement of increased supervision by parents, adoptive parent or guardian shall accordingly apply to enforcement of the educational measure of increased supervision by a foster family.

Increased Supervision by Guardianship Authority

Article 109

Enforcement of the educational measure of increased supervision by a guardianship authority shall be under the competence of the guardianship authority of the juvenile's permanent or temporary residence at the time the decision ordering the educational measures became final.

The guardianship authority shall upon receiving the final decision ordering the educational measure appoint an official of the guardianship authority or other professional to enforce the measure and shall so promptly notify the Juvenile judge of the first instance Court.

Article 110

A professional entrusted with enforcement of the educational measure shall draw up a program of work with the juvenile in accordance with instructions of the Court and the competent guardianship authority.

Government authorities, rehabilitation, educational and other institutions are obliged to extend assistance to the professional enforcing this educational measure, and the parent, adoptive parent or guardian shall inform the professional of circumstances that hinder enforcement of the measure.

In all other aspects of enforcement of the educational measure of increased supervision by a guardianship authority, provisions governing enforcement of educational measure of increased supervision by parents, adoptive parent or guardian shall accordingly apply.

Increased Supervision with Daily Attendance in Relevant Juvenile Rehabilitation and Educational Institution

Article 111

The guardianship authority of competent jurisdiction pursuant to the juvenile's permanent or temporary residence at the time the decision ordering the measure of increased supervision with daily attendance in relevant juvenile rehabilitation and education institution became final, shall have competence for enforcement of this educational measure.

The guardianship authority shall determine the institution specified in paragraph 1 of this Article and shall be responsible for enforcement of daily attendance of the juvenile in that institution.

Article 112

Daily attendance may not exceed four hours during a working day over a period determined under Article 18, paragraph 2 hereof.

The juvenile shall remain with his parent, adoptive parent or guardian during enforcement of this measure and shall continue to attend school or go to work.

A Work Record shall be kept on daily attendance. A report on the course and results of daily attendance of a juvenile shall be submitted to the Juvenile judge adjudicating in the first instance Court, Juvenile Public Prosecutor, and the guardianship authority by the institution where the daily attendance of the juvenile is enforced, upon its termination and, when necessary, during enforcement of the measure.

Provisions of this Act governing enforcement of the educational measure of increased supervision by parents, adoptive parent or guardian shall accordingly apply to enforcement of

the educational measure of increased supervision with daily attendance in relevant juvenile rehabilitation and educational institution.

4. Enforcement of Institutional Educational Measures

Joint Provisions

Article 113

Institutional educational measures are enforced in an educational institution, correctional facility and special juvenile institutions for treatment and acquiring of social skills.

Article 114

If the Court adjudicating in the first instance does not have jurisdiction for enforcement of institutional educational measure, it shall deliver the final decision together with the Birth certificate, document or proof of schooling or vocational training to date, medical report, record of previous criminal offences, conducted proceedings and reports of the guardianship authority, to the enforcement authority within three days from the day the decision became final.

The authority receiving the decision for enforcement shall commence with enforcement of the criminal sanction within three days from the day of receiving the decision and documents specified in paragraph 1 of this Article .

Article 115

The Juvenile judge of the Court adjudicating in the first instance and the competent Juvenile Public Prosecutor shall at least twice a year visit the juvenile remanded in a facility for enforcement of institutional educational measures where, in direct contact with the juvenile and the professionals engaged in enforcement of the educational measure and though inspection of relevant documents, they shall determine the lawfulness and correctness of treatment and evaluate the achievement in educational and proper growth of the juvenile's personality.

The persons referred under paragraph 1 of this Article shall promptly notify the bodies and institutions in charge of supervision of enforcement of educational measures, and the facility and/or institution where the educational measure is enforced, of any noticed irregularities and other observations.

Following notification of the Juvenile judge and/or the Juvenile Public Prosecutor the bodies and institutions in charge of professional supervision as well as the management of the institution or facility where the educational measure is served, shall promptly institute relevant investigations and undertake measures to rectify the unlawfulness and irregularities and shall accordingly inform the Juvenile judge, and the Juvenile Public Prosecutor specified under paragraph 1 of this Article .

Article 116

At the application of the juvenile, his parent, adoptive parent or guardian or at the recommendation of the competent guardianship authority, enforcement of institutional educational measure may be postponed on justifiable grounds.

The juvenile Court bench of the Court adjudicating in the first instance shall decide on postponement within three days of receiving the application.

The first instance decision may be appealed with a higher Court within three days of receiving the decision, by the juvenile, his parents, adoptive parent or guardian.

The juvenile Court bench of the higher Court shall decide on the appeal within three days of receiving the appeal.

The application and recommendation specified in paragraph 1 and the appeal specified in paragraph 3 of this Article shall stay enforcement of the institutional measure.

If it is the determination of the first instance Court in repeated rejection of the application to

postpone enforcement that the right to application is being abused, it shall rule that the appeal shall not stay enforcement of institutional measure.

Article 117

At the application of the juvenile, his parent, adoptive parent or guardian, at the recommendation of the competent guardianship authority or superintendent of the facility or institution where the educational measure is enforced, the Court adjudicating in the first instance may on justifiable grounds suspend enforcement of the educational measure.

Suspension of enforcement of an institutional measure shall be allowed pursuant to application of the Juvenile Public Prosecutor if a motion for protection of legality has been filed against the decision ordering such measure.

Persons specified under paragraph 1 of this Article may appeal against the decision of the first instance Court to the juvenile bench of the higher Court within three days following the receipt of the decision. Decision on the appeal shall be brought within three days after its receipt.

Suspension of enforcement of an institutional educational measure may not exceed three months except in case of illness of the juvenile when it may last longer.

Time of enforcement suspension shall not be calculated in the duration of the measure.

Article 118

In all other respects, provisions of the Law on enforcement of penal sanctions governing postponement of enforcement and suspension of enforcement of prison sentence for committed criminal offence shall accordingly apply to postponement and suspension of institutional measure.

Article 119

A juvenile is discharged from serving of educational measure after expiry of the longest statutory duration of the measure or when the Court orders revoking of its enforcement, substitution of the ordered educational measure by another or release on probation.

The juvenile Court bench of the Court adjudicating in the first sentence shall decide, at the application of the juvenile on release on probation in respect of educational measures of remand to educational institution or correctional facility.

When a juvenile is in the finishing grade of school or at the end of his vocational training and discharge from the facility or institution where the measure is enforced would prevent completion of schooling or vocational training, the facility or institution may at the application of the juvenile enable him to complete schooling or vocational training. In such cases provisions of Article 120, paragraph 4 and Article 124, paragraph 4 hereof shall not apply to the juvenile.

Remand to Educational Institution

Article 120

The institutional measure of remand to an educational institution is enforced in an institution providing accommodation and rehabilitation, health, educational, sports and other development needs of a juvenile.

A juvenile to whom this educational measure is ordered shall have the same rights and duties as other juveniles in the educational institution, but shall be afforded particular attention in treatment in a manner that would not separate him from the others in daily activities of the institution.

Only the superintendent, rehabilitation, education and other professional involved in enforcement of the educational measure shall be informed that the juvenile is under an educational measure.

A person remanded to an educational institution may stay there until attaining twentyone years of age.

Article 121

The guardianship authority of competent jurisdiction pursuant to permanent or temporary residence of the juvenile at the time the order on educational measure became final shall appoint the person required to bring the juvenile to the educational institution.

The educational institution notifies the Court on admission of the juvenile and of the day when educational measure enforcement started.

Article 122

If enforcement of the educational measure cannot commence or continue due to juvenile's refusal or escape, the guardianship authority and/or superintendent of the educational facility shall

accordingly inform the relevant law enforcement officer that shall escort the juvenile to the rehabilitation institution.

The manner of escorting may not violate the juvenile's dignity.

Article 123

On justifiable grounds at the application of a juvenile, the juvenile's parents, adoptive parent or guardian or at the recommendation of the institution where the educational measure is being enforced and/or recommendation of the competent guardianship authority, the Court may order transfer of the juvenile to another educational institution.

Remand to a Correctional Facility

Article 124

The educational measure of remand to a correctional facility is enforced in the correctional facility.

The educational measure of remand to a correctional facility ordered to a female person is enforced in the women's ward of the correctional facility.

A person of legal age to whom the educational measure specified in paragraph 1 of this Article is ordered and the juvenile who attains legal age in the correctional facility during enforcement of this measure shall be accommodated in a separate ward of the correctional facility.

A person to whom remand to a correctional facility has been ordered may remain there until attaining twenty three years of age.

Article 125

The Court adjudicating in the first instance shall have powers to remand the juvenile to a correctional facility. A juvenile shall be given minimum eight and maximum fifteen days to prepare.

A detained juvenile is remanded to a correctional facility by the Court specified in paragraph 1 of this Article on whose territory is the seat of the institution where the juvenile is detained.

The Court remanding a juvenile for enforcement of the educational measure delivers to the correctional facility the final decision of the ordered measure with documents specified in Article 114, paragraph 1 hereof.

Article 126

The Court adjudicating in the first instance shall instruct in writing a juvenile who is not detained to appear for enforcement of the ordered educational measure or shall instruct the juvenile's parent, adoptive parent or guardian to bring the juvenile in on a particular date to the correctional facility.

The Court referred to in paragraph 1 of this Article notifies the correctional facility of the date

when the juvenile has to report and delivers with this notice the final decision ordering the educational measure with information on the juvenile collected during the proceeding specified in Article 114, paragraph 1 hereof.

If the juvenile fails to comply with the instruction of the Court to report to the correctional facility, the Court orders that he be escorted, and if the juvenile is in hiding or has escaped, the Court orders issuing of an allpoints bulletin.

In case of the juvenile's escape from a correctional facility the superintendent of the facility orders issuing of an allpoints bulletin.

Article 127

On admission of a juvenile to correctional facility first his identity is determined, followed by a medical examination and examination of personal characteristics in a special ward of the correction facility to determine the program of treatment. This examination may not exceed thirty days.

A qualified team of the correctional facility shall draw up an individualised program of treatment of the juvenile.

Following the examinations specified in paragraph 1 of this Article the juvenile is assigned to an educational group formed according to age, apparent maturity and other personal characteristics of the juvenile, the set program of treatment, and aimed at applying the same type of educational procedures and impact. The educational group shall have not more than ten juveniles and a separate instructor.

Article 128

A juvenile under enforcement of educational measure of remand to a correctional facility has the following rights:

- 1) To be provided with underwear, civilian clothing and footwear appropriate to the time of the year and local climate conditions provided by the correctional facility;
- 2) Nutrition that is balanced, hygienically and medically suited to his age, and that shall keep him in good health and strength and enable normal mental and physical development;
- 3) Minimum three meals a day with total calorie value of minimum 14,600 joules;
- 4) Minimum three hours per day recreation during his leisure time, in fresh air and outside closed premises;
- 5) To participate in organised cultural, sports and other appropriate activities outside the correctional facility;
- 6) To prerequisites facilitating physical training and sports;
- 7) To attend classes outside the correctional facility if the correctional facility has not organised education of particular type or degree and if so justified by achievement in the juvenile's rehabilitation and education to date, if this would not be detrimental to enforcement of the educational measure;
- 8) Unlimited number of parcels whose weight and content are set out in the act on house rules;
- 9) Weekly visit by parent, adoptive parent, guardian, spouse, the commonlaw partner, adoptee, children and other lineal relatives and relatives in lateral line to fourth degree of sanguinity;
- 10) To spend up to three hours in private with a spouse or commonlaw partner once a month, in a separate room specially designated for that purpose within the correctional institution;
- 11) To have visits twice a month by other persons who do not interfere with enforcement of the educational measure, where the superintendent of the facility may ban visits of these persons;
- 12) To work in the correctional facility, according to his abilities and without interfering with his obligation to attend classes. A juvenile not attending classes shall have working hours pursuant to general regulations. A juvenile may be engaged outside of working hours for maximum two hours per day at cleaning and other daily chores in the correctional facility;
- 13) To be compensated for work and have rewards for special achievements in work, whose minimum and maximum amounts shall be determined by the Head of the Institutional

Sanctioning Directorate of the Ministry of Justice, and the right to dispose freely with half of the remuneration and rewards, while the remainder is deposited to a savings account and the superintendent may,

exceptionally, grant the juvenile right to dispose with the whole remuneration;

14) To daily and weekly leisure time pursuant to general regulations;

15) To annual leave between eighteen and thirty days to be used outside or inside the correctional facility, where the duration thereof, manner of and place of use of leave is determined by the superintendent at the recommendation of the instructor;

16) To health care outside of the correctional facility if the facility cannot provide adequate medical treatment. Time spent for treatment in relevant medical institution is calculated as time spent for the educational measure.

Article 129

The superintendent of the correctional facility may grant the following benefits to a juvenile of good behaviour and dedicated to work:

- 1) Extended visiting privileges;
- 2) Liberty in visiting the town;
- 3) Visits to sports, cultural and other suitable events outside the correctional facility;
- 4) Visits to family, relatives or other close persons on weekends and holidays;
- 5) Leave from the correctional facility up to fifteen days.

Extended visiting privileges include more frequent visits of persons specified in Article 128, item 11 hereof.

The superintendent may grant other benefits to the juvenile that favourably impact on enforcement of educational measure.

Article 130

The following disciplinary measures may be ordered to a juvenile for violation of provisions of the Act relating to rules of behaviour in the correctional facility, house rules and work discipline, duties in respect of the program of treatment and orders of authorised persons:

- (1) Admonition;
- (2) Withdrawing of granted privileges;
- (3) Removal to separate premises.

Disciplinary measure of withdrawal of granted privileges and removal to separate premises may be ordered cumulatively.

A juvenile to whom a disciplinary measure of removal to separate premises is ordered may not use privileges specified in Article 129 hereof for fifteen days following termination of the disciplinary measure.

The disciplinary measure of removal to separate premises may not exceed seven days and in joinder of disciplinary offences, the disciplinary measure of removal to separate premises may not exceed fifteen days.

If the purpose of a disciplinary measure may be achieved without enforcement of the measure, the enforcement of disciplinary measure of removal to separate premises and withdrawal of granted privileges may be deferred on probation up to three months. Probation of enforcement of disciplinary measure may be revoked if during the period of probation in respect of enforcement a new withdrawal of privileges is ordered to a juvenile or removal to separate premises. Removal to separate premises is ordered for maximum ten days if withdrawal of privileges is imposed for the latter infringement, and when removal to separate premises is ordered for the subsequent infringement such removal to separate premises may not exceed fifteen days.

The disciplinary measure of removal to separate premises is a measure comprising continuous stay of two or more juveniles in a separate room.

During enforcement of the separation measure the juvenile shall have right to spend minimum of two hours outside the closed premises, in fresh air.

During enforcement of the measure of removal to separate premises the juvenile shall be visited on daily basis by a doctor and instructor and at least every three days by the superintendent of the facility.

During enforcement of the measure of removal to separate premises a juvenile shall have access to textbooks and other literature that has no harmful effect on his education.

Article 131

The provisions of the Law on enforcement of penal sanctions governing disciplinary punishment of persons serving a prison sentence for a criminal offence shall accordingly apply to conditions for ordering disciplinary measures, disciplinary proceeding and enforcement of disciplinary measures against juveniles.

Article 132

Force and means of restraint may be applied to a juvenile in a correctional facility only exceptionally and only when necessary to prevent physical attack against on an official, other juvenile or selfinfliction of injury.

Firearms may be exceptionally used against a juvenile only if by other means of force or restraint the life of a juvenile or other person cannot be protected in event of direct attack.

Article 133

Specific provisions on enforcement of the educational measure of remand to a correctional facility are contained in separate House Rules.

Remand to Special Institution for Medical Treatment and Acquiring Social Skills

Article 134

A juvenile with mental and physical handicap or mental disorder to whom the measure of remand to a special institution for treatment and acquiring of social skills is ordered shall be remanded to a relevant institution where he shall be entitled to the same rights as other juveniles remanded to that institution.

A juvenile to whom the order of remand to a special institution for treatment and acquiring social skills is pronounced instead of the security measure of mandatory psychiatric treatment and confinement in a medical institution is remanded to a special institution for treatment and acquiring of social skills for juveniles if safeguarding and treatment may be provided in such institution and thus achieve the purpose of that security measure.

Article 135

Remand of the juvenile to a special institution for treatment and acquiring of social skills is done by the guardianship authority of the juvenile's permanent or temporary residence at the time when the decision ordering the educational measure became final.

The guardianship authority specified in paragraph 1 of this Article shall promptly notify the Court of jurisdiction for enforcement of this educational measure, and the law enforcement authority when the enforcement of the measure cannot commence due to refusal or escape of the juvenile.

The juvenile is brought under escort of medical staff.

The manner of bringing and escorting may not violate the dignity of the juvenile.

Article 136

The special institution for treatment and acquiring of social skills of juveniles furnishes reports in terms of Article 84, paragraph 3 hereof on the results of enforcement of the measure, and when the juvenile attains majority it shall particularly notify the competent first instance Juvenile judge and the Juvenile Public Prosecutor in respect of the health of the juvenile.

4. ENFORCEMENT OF JUVENILE PRISON SENTENCE

Article 137

A juvenile prison sentence is enforced in a juvenile correctional facility.

The convicted persons serve the juvenile prison sentence, together, as a rule, and shall be separated only if so required by reason of health of the convicted person or the need to ensure security and maintaining of order and discipline in the correctional facility.

A juvenile prison sentence ordered to female persons is enforced in separate women's ward of the correctional facility.

Juveniles are remanded to serve a juvenile prison sentence in accordance with the deployment act of the Ministry of Justice.

Adult persons sentenced to juvenile prison are accommodated in a special ward of the facility, as well as juveniles who attain majority while serving a juvenile prison sentence.

Article 138

While serving the sentence convicted juveniles are provided with: education, professional and vocational qualification for a vocation according to their abilities, predilection and education and work to date, in accordance with the facilities available in the correctional institution. Treatment of convicted juveniles is based on participation in educational and useful work engagements with corresponding remuneration, fostering and encouraging links between the juvenile and society outside the facility by letters, telephone conversation, receiving visits, leave etc, as well as participation in sports, cultural, arts, entertainment activities and providing the possibility to practise religious needs.

Qualified persons implementing treatment programs of juveniles shall possess special skills in pedagogy, psychiatry and penology.

Article 139

Persons sentenced to juvenile prison may remain in a juvenile correctional facility until they attain twentythree years and if at such time they have not served their sentence they shall be transferred to correctional facilities where adults serve sentences for criminal offences.

Exceptionally, a person sentenced to juvenile prison may remain in a juvenile correctional facility after attaining twentythree years if so required to complete schooling or vocational or professional education, or if the remaining part of the sentence does not exceed six months, but in no case after attaining twenty five years of age.

Article 140

A convicted person serving a juvenile prison sentence is entitled to protection of the Court in respect of measures and decisions of the superintendent of the correctional facility where he is serving the sentence.

The application of the persons convicted to juvenile prison sentence for protection of the Court in respect of measures and decisions specified above, shall be decided by the juvenile Court bench of the Court adjudicating in the first instance.

Article 141

Working hours of the person convicted to juvenile prison sentence is determined so as to enable education and vocational training, leaving sufficient time for physical training, culturalarts activities, religious needs and leisure.

Article 142

The superintendent of the facility where the juvenile prison sentence is enforced may grant, in addition to privileges specified in Article 128 hereof, to a person of exemplary conduct and dedication in studying and work, leave to visit parents, adoptive parent, guardian, spouse,

commonlaw partner, children, adoptee, siblings or other close persons.

Leave referred to in paragraph 1 of this Article may be granted twice a year and may last up to fourteen days each, and shall be granted, as a rule, during the period when no classes are conducted.

A person convicted to a juvenile prison sentence may not be restricted in correspondence with parents, adoptive parent, guardian, spouse, commonlaw partner, children, adoptee, siblings.

Article 143

A person serving a juvenile prison sentence shall be allowed to spend a minimum of three hours daily, during time of leisure, outside of closed premises, in the open.

Article 144

The juvenile Court bench adjudicating in the first instance shall decide on release on probation of a person convicted to juvenile prison.

The juvenile Court bench decides on probation on basis of the application of the juvenile.

Prior to taking of decision, the president of the juvenile Court bench shall, when appropriate, question the juvenile, his parents, officials of the guardianship authority and other persons and obtain the opinion of the correctional facility in respect of justifiability of release on probation. Questioning of the juvenile is mandatory if probation is considered after twothirds of sentence served, unless the juvenile Court bench, on basis of available documents, assesses that conditions for release on probation have been met.

Revoking of probation, when conditions for doing so have been met, shall be decided by the Court issuing the decision on release on probation, after hearing the Juvenile Public Prosecutor and the juvenile.

Article 145

Provisions of this Act governing remand and admittance of the juvenile, deferment and suspension of enforcement, allocation to educational groups, nourishment, right to visits, physical exercise, regular education and disciplinary punishment of juveniles in a correctional facility shall accordingly apply to enforcement of juvenile prison sentence.

In all other respects the provisions of the Law on execution of penal sanctions governing enforcement of prison sanctions for criminal offences shall accordingly apply to execution of juvenile prison sentence.

5. SPECIAL PROVISIONS ON ENFORCEMENT OF SECURITY MEASURES

Article 146

The security measure of mandatory psychiatric treatment and care in a health institution when conditions of Article 23, paragraph 2 hereof are not met, is enforced in a separate juvenile ward of the health institution.

Enforcement of the security measure of mandatory psychiatric treatment and remand in a health institution, mandatory treatment of alcoholics and mandatory treatment of drug addicts is adjusted to the age and character of the juvenile.

ASSISTANCE AFTER ENFORCEMENT OF INSTITUTIONAL MEASURES AND JUVENILE PRISON SENTENCE

Article 147

For the duration of the institutional measure and juvenile prison sentence the competent guardianship authority shall maintain constant contact with the juvenile, his family and institution in which the juvenile is remanded, in order to better prepare the juvenile and his family for his return to the former social environment and inclusion in social activities.

An institution or facility in which the juvenile is serving his juvenile prison sentence are required to notify at least three months in advance of the scheduled leave of the juvenile, his parents, adoptive parent, guardian, and/or close relatives with whom the juvenile used to live, as well as the competent guardianship authority, and suggest measures for accepting the juvenile on his return.

Article 148

A parent, adoptive parent or guardian, and/or close relative with whom the juvenile used to live before serving his institutional sentence or juvenile prison sentence, is required to notify the competent guardianship authority about the juvenile's return to his family.

Competent guardianship authority is required to provide necessary assistance to the juvenile, after he has served criminal sanction under paragraph 1 of this Article .

Article 149

The competent guardianship authority shall on release of the juvenile from serving of his institutional measure or juvenile prison sentence take special care of a juvenile without parents and of a juvenile whose family and material circumstances are in disorder.

This care shall particularly include accommodation, nourishment, provision of clothing, medical treatment, assistance in settling family circumstance, finalising vocational training and employment of the juvenile.

Part Three

SPECIAL PROVISIONS ON PROTECTION OF MINORS AS VICTIMS IN CRIMINAL PROCEEDING

Article 150

A bench, presided by a judge with special skills in the field of the rights of the child, and criminal protection of juveniles, shall try adult offenders for the following criminal offences committed against minors, set forth by the Criminal Code:

Murder (Article 114)

Inducement to suicide and assistance in suicide (Article 119)

Heavy bodily harm (Article 121)

Abduction (Article 134)

Rape (Article 178)

Sexual assault of a defenceless person (Article 179)

Sexual assault of a child (Article 180)

Sexual assault by misconduct in office (Article 181)

Indecent assault (Article 182)

Procuration and facilitating sexual intercourse (Article 183)

Mediation in prostitution (Article 184)

Display of pornographic material and pornographic abuse of children
(Article 185)

Commonlaw marriage with a juvenile (Article 190)
Capture of a minors (Article 191)
Altering family status (Article 192)
Neglect and abuse of a minor (Article 193)
Family violence (Article 194)
Withholding financial support (Article 195)
Incest (Article 197)
Burglary (Article 205) Robbery (Article 206)
Extortion (Article 214)
Facilitation of the use of narcotics (Article 247)
War crime against civilians (Article 372)
Slave trade (Article 388)
Child trafficking for adoption (Article 389)
Slavery and transport in slavery (Article 389)

The state prosecutor with special skills in the field of the rights of the child and in criminal protection of minors, shall initiate proceeding against adult perpetrators of other criminal offences stipulated by the Criminal Code, in compliance with the provisions of this section of the Act, if in his opinion it is necessary to do so for purpose of protecting personality of minors as victims in criminal proceedings.

Article 151

Criminal proceeding against perpetrators of criminal offences specified in Article 150 hereof is conducted in accordance with provisions of the Criminal Procedure Code.

Investigation is conducted by an investigative judge with special skills in the field of the rights of the child, and criminal protection of minors.

Specialised members of the police authorities with special skills in the field of the rights of the child and criminal protection of minors shall participate in investigation of criminal offences prejudicial to minors, when particular activities are delegated to these authorities.

Article 152

When conducting proceeding for criminal offences committed against juveniles, the state prosecutor, investigative judge and judges of the bench shall treat the victim with care, having regard to his age, character, education and living circumstances, particularly endeavouring to avoid all possible prejudicial consequences of the proceeding on his character and development. Questioning of a child or juvenile shall be conducted with the assistance of psychologist, pedagogue or other qualified person.

If a juvenile is questioned as witness who is victim of a criminal offence specified in Article 150 hereof, the questioning may be conducted at most twice, and exceptionally more if necessary to achieve the purpose of criminal proceeding. If the juvenile is questioned more than twice, the judge shall particularly have regard for the protection of personality and development of the juvenile.

If, due to the nature of the criminal offence and the juvenile's character the judge considers it necessary, he shall order questioning of the juvenile with the aid of technical devices for transmitting of image and sound, and the questioning shall be conducted without presence of the parties and other participants in the proceeding in the room where the witness is located, so that parties and persons entitled to ask question may do so through the judge, psychologist, pedagogue, social worker or other qualified person.

Juveniles may be questioned as witnessvictims in their apartment or other premises and/or authorised institution – organisation that is professionally qualified for questioning of minors. In questioning of the witnessvictim, the authorities referred to in paragraph 1 of this Article may order application of measures under paragraph 3 of this Article .

When a juvenile has been questioned in cases specified in paragraphs 2, 3 and 4 of this Article , the record of his testimony shall always be read at the main hearing or a recording of the questioning heard.

Article 153

If a juvenile is questioned as witness, who due to the nature of the criminal offence, consequences or other circumstances is particularly vulnerable or is in a particularly difficult mental state, confrontation between him and the defendant is prohibited.

Article 154

A juvenile who is a victim shall have a legal representative from the first questioning of the defendant.

If the juvenile does not have a legal representative, he shall be appointed by the President of the Court from the ranks of attorneys with special skills in the field of the rights of the child and criminal and legal protection of juveniles. The costs of representation shall be borne by the Court budget.

Article 155

If recognition of the defendant is done by a juvenile who is a victim, the Court shall proceed with particular care and shall conduct such recognition in all phases of the proceeding in a manner that completely prevents the defendant from seeing the juvenile.

Article 156

The provisions of the Criminal Procedure Code shall accordingly apply to jurisdiction and composition of the Court adjudicating adult perpetrators of criminal offences against juveniles unless in contravention with provisions of this Act.

Article 157

Criminal proceeding for offences specified in Article 150 hereof is summary.

Part Four

PENAL PROVISIONS

Article 158

A parent, adoptive parent or guardian or other persons exercising care of a juvenile may be fined up to thirty thousand dinars or punished with up to thirty days imprisonment:

1) if without justification fails to act in accordance with the order of the Court adjudicating in the first instance or instructions of a professional appointed by the guardianship authority directly in charge of enforcement of an educational measure and exercising supervision over the juvenile and enforcement of the educational measure;

2) if without justifiable reason fail to act in accordance with the order of a Court or decision of the guardianship authority obligating such person to bring the juvenile on a set date to an institution or facility for enforcement of the institutional educational measure (Articles 120 and 125 hereof);

The superintendent of the facility or institution who without justification fails to admit a juvenile remanded by competent authority shall be fined up to fifty thousand dinars. The same punishment shall apply also to a superintendent of a facility or institution who releases without the order of the competent Court a juvenile serving an institutional educational measure.

Part Five

TRANSITIONAL AND FINAL PROVISIONS

Article 158

Educational measure of remand to a juvenile disciplinary centre that has become final prior to coming into force of this Act shall be substituted by an educational measure of increased supervision by parents, adoptive parent or guardian with daily attendance in relevant juvenile rehabilitation and education institution.

Educational measure of increased supervision by parents, adoptive parent or guardian, increased supervision in foster family and increased supervision by guardianship authority that has become final prior to coming into force of this Act may not last longer than stipulated by this Act.

Educational measure of remand to an educational institution, remand to a correctional facility and remand to special institution for treatment of juveniles and acquiring social skills that has become final prior to coming into force of this Act may not last longer than stipulated by this Act.

Article 160

A juvenile prison sentence that has become final prior to coming into force of this Act of longer duration than may be ordered pursuant to provision of Article 29 hereof, shall be pronounced in accordance with provisions hereof.

Article 161

Provision of Article 38 of this Act on rehabilitation of offenders convicted to juvenile prison shall also apply to persons convicted prior to coming into force of this Act, unless rehabilitation is already in force.

Article 162

Criminal proceeding for offences under provisions of Article 150 of this Act, committed against juveniles, instituted prior to coming into force thereof shall continue pursuant to this Act, unless otherwise specified herein.

If prior to coming into force of this Act a decision was passed in cases under the jurisdiction of this Act which provides for a legal remedy pursuant to the Criminal Procedure Code, and such decision has not been delivered to persons entitled to legal remedy or if the legal remedy has been filed but not ruled upon, in respect of legal remedy and procedure pursuant to legal remedy provisions of the Criminal Procedure Code shall apply.

Article 163

If a deadline was running in cases under jurisdiction of this Act on the day of its coming into force, such deadline shall be computed pursuant to provisions of this Act, unless the deadline set under current legislation was longer.

Article 164

Cases where proceedings against a juvenile have commenced but no first instance decision has been passed shall be taken over by a Court under whose jurisdiction are such cases in accordance with provisions of this Act, within thirty days from the day of commencement of application of this Act.

If due to legal remedy a case is referred for retrial and adjudication, such case shall be relinquished to a Court of competent jurisdiction under this Act.

Article 165

Acquiring of special skills and advanced professional education of persons engaged in the field of the rights of the child, juvenile delinquency and criminal protection of juveniles shall be

under the purview of the Judicial Training Centre in cooperation with the relevant ministries of the Republic of Serbia Government, scientific institutions, professional and expert associations and nongovernmental organisations. The Centre organises regular professional seminars, skills checkup and other forms of supplementary professional advanced training and permanent education of judges for minors, Juvenile Public Prosecutors, judges and prosecutors acting in criminal matters for criminal offences specified under Article 150 of this Act, police officers, professionals of social welfare agencies, institutions and facilities for execution of institutional sanctions, lawyers and other qualified persons. Judicial Training Center issues adequate certificates on the performed tests and professional training.

Article 166

The ministry of Justice and the Supreme Court of the Republic of Serbia shall establish a Council for monitoring and promoting the work of bodies engaged in criminal proceedings and enforcement of juvenile criminal sanctions involving juveniles, and shall issue Rules on its work not later than six months from the day of this Act comes into force.

Members of the Council are appointed from the ranks of distinguished judges, prosecutors, police officers, lawyers, professionals of institutions and facilities for enforcement of institutional sanctions and social welfare agencies, who have over an extended period worked or are working on criminal cases involving juveniles, as well as individuals who are recognised experts in the field of juvenile delinquency and criminal protection of juveniles.

The Council shall submit to the Ministry of Justice and the Supreme Court of the Republic of Serbia initiatives, recommendations, opinions and analysis relating to juvenile delinquency and criminal protection of children and juveniles, their treatment pursuant to provisions of this Act.

Article 167

Bylaw in terms of Article 86 hereof shall be passed by the Minister of Justice in cooperation with the Minister of Labour, Employment and Social Affairs, and the Republic Prosecutor.

Bylaw in terms of Article 101, paragraph 4 hereof shall be passed by the Minister of Justice in cooperation with the Minister of Labour, Employment and Social Affairs.

Bylaw in terms of Article 37, paragraph 2 and Article 99, paragraph 2 hereof shall be passed by the Minister of Justice.

Bylaws specified under paragraphs 1, 2 and 3 of this Article will be passed within six months from the date this Act comes into force.

Separate Rules and/or house rules, containing specific provisions on enforcement of educational measures of remand to a correctional facility and juvenile prison, shall be issued by the Minister of Justice upon suggestion of superintendents of juvenile educational institutions and correctional facilities, within six months from the day this Act comes into force.

Article 168

On the day this Act comes into force, provisions of Chapter XXIX (Proceedings with juveniles) of the Criminal Procedure Code becomes null and void (Official Gazette of SRY No. 70/01 and 68/02, Official Gazette of RS, No. 58/04).

Article 169

This Act shall come into force on January 1st, 2006.