



NATIONAL CONVENTION ON THE EU INTEGRATION

Working Group I (Judiciary and Fundamental Rights)

Session 1 Topic: Juvenile Justice and Rights of Minors

16. 07. 2015

Recent Developments

While there are a lot of debates about Reform in Justice or the opening of negotiations, sensitive topics such as the Juvenile Justice System, often are ignored or forgotten. The recent problematic cases in which children are involved, give us a message to be aware about the importance of the children justice system and the role it has in the society.

In the framework of the juvenile justice, regarding article no. 54 of the Constitution of Albania, which provides protection and special support to children by the state, the adoption of the *Law on the Protection of the Rights of the Child*(which consultations will open on September), it is seen as a positive step.

The Working Group evaluated as positive the extension of Probation Service in all the regions of Albania, which is adopted by the Prime Minister Decree no.100, on 21 February 2014. This has provided a local Probation Service office in every district in Albania, fulfilling the goal to have offices even in Tropoja, Puka, Dibra, Kurbin, Kruja, Kavaja, Lushnja, Pogradec, Përmet and Saranda, which means 22 in total.

In 2014 is launched the implementation of the **Risk Assessment for Minors**, which aims to assess the minors in the judicial penal system, to analyse the author of the penal act and so, to identify the reasons of the action. According to the working group this instrument is important in forecasting and preventing the crime and increasing the security into the society.

Another positive element was the initiative of a pilot project, which focuses on sensibilisation and motivation of the entrepreneurs to hire the young offenders. It is a



good news that only in two first months of the implementation, three young offenders are hired by local businesses.

Problems & Recommendations:

- Juvenile justice should not be limited only in the penal system, because it is linked with different elements such as family, educational system and social protection. This means that children are part of a family which has duties regarding their wellbeing and education, and in the meantime children as citizens have their rights to obtain education, information and sustainable development. The convicted minors, most of the times are victims of the gaps in the education system or family protection, state and society in general. Therefore, there is a **need to enhance the cooperation and well-coordination between the mentioned institutions.**
- In the same time, regarding the fact that the social aspect is very important, experts suggest **an intersectional cooperation between social policies and justice system.**
- Since there are many cases noticed that lack a whole and complete investigation of factors leading the minor toward crimes and also a lack of work culture with the children. Therefore it is needed a special treatment within the penal legislation, including special procedural norms which would be well adapted with the treatment requirements of minors defendant, more appropriate security measures for them, reduced timeframes for their trial investigation. There was proposed the establishment of a **Juvenile Court**, with specialised judges and prosecutors in the treatment of children.
- According to statistics, almost 90% of the minor offenders become **recidivist**, return to prison. It is needed an enforcement of **Reintegration Program for the Children**, which includes entertaining as well as works considered as insufficient

by the Working Group. During the prison sentence, more educational works and a variety of activities should be provided to minors.

- The most common juvenile crime is theft, but in the last years there is an increase of minors involved in more violent crimes such as murders, drug selling etc. In this direction it becomes necessary to **analyse the phenomena in an interdisciplinary methodology by understanding the reasons and finding the solutions in improving the situation.**
- Nevertheless the positive impact of the set-up of **Special Institution of the Minors**, there are still many problems: such as the cases where the minors stay in the same cells during the custody with adults; or the treatment that young women get, which is the same with that of the male offenders. These facts are against the law. They harm the interests of young people and increase the risk of manipulation and negative effect that criminal adults could make toward them.
- According to the identified cases there is a lack of specialised psychologists and sociologists working with sentenced children. In most of the cases the psychologists have a general profile and essential background, and their interviews with the minors do not treat children' specific needs. It comes as necessity the establishment of **intersectional and interdisciplinary teams specialized on children' issues**, in which experts of different fields such as sociologists, psychologists, judges and policemen would cooperate and coordinate with each other.
- The Working Group suggested the set-up of a **Supervisory Mechanism of Minors**, which would observe the minors after the finish of Probation Service. A remaining problematic issue is the insufficient staff in the Probation Service.
- Another problem identified concerns **the age of criminal responsibility**. The legislation in Albania does not provide specific services to offenders who are below the age of criminal responsibility, while they are in contact with criminal acts. A more social approach should be introduced, giving priority to education.
- It suggested an interaction in preparing and implementing the **Rehabilitation Plan on Minors Risk Factors**

- **Alternative Sentence** should be treated as a legal-social issue. During the period 2009-2014 there was an increase of given alternative sentences: in 2012 there were 312 cases, in 2014 there were 412 and in two first months of the year 2015 there have been 84 cases.
- The fact that the **Prosecutor Office** does not requires the reports prepared by the Probation Service regarding the reasons and factors influencing a minor to commit an offence or crime, means that this institution neglects the specific features in children cases and lacks qualified experts who could inspect analyse those reports.
- The Working Group suggested some **Amendments to Legislation**: -Article 46, Penal Code. The educational measures are perceived as an alternative, while they should be considered before the sentence is given. It is really important that the best interest for the minor to be foreseen as a criteria, as in the Kosovo legislation. -The criteria of minimal age should be reconsidered in the possible cases of recidivism. Some other countries have two different systems: Juvenile Justice and Children Justice. Also, it is assessed that concerning young people aged 18-21 should be given the opportunity to treat them as minors in special cases. These best practices should be taken into the consideration during the process of amendments to law. - Another issue that was mentioned during the session was the fact that it does not exist a special Chapter dedicated to Minors, but only some dispositions in the law. Therefore these dispositions should be harmonised into a single Chapter.

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