

University of Ljubljana

European Master's Degree in Human Rights and Democratisation  
A.Y. 2016/2017

International Instruments on Juvenile  
Delinquency, Reactions to Juvenile Offences, and  
Harmonisation with National Legislations: The  
Case Studies of Serbia and Slovenia

Author: Milana Todorović

Supervisor: prof. Barbara Rajgelj

## Table of Contents

<b>Chapter I: Introduction.....</b>	<b>6</b>
<b>1. Definition of the child in the conflict with the law .....</b>	<b>8</b>
<b>2. Definition of juvenile delinquency .....</b>	<b>10</b>
<b>Chapter II: International Instruments Regulating Status of Child .....</b>	<b>12</b>
<b>1. Universal Declaration of Human Rights.....</b>	<b>13</b>
<b>2. European Convention on Human Rights.....</b>	<b>13</b>
2.1. European Court for Human Rights .....	15
<b>3. Convention on the Rights of the Child.....</b>	<b>15</b>
3.1. Committee on the Rights of the Child.....	18
<b>Chapter III: Specific Documents Regulating Juvenile Delinquency.....</b>	<b>20</b>
<b>1. United Nations Documents.....</b>	<b>20</b>
1.1. United Nations Standard Minimum Rules for the Administration of the Juvenile Justice.....	21
1.2. United Nations Rules for the Protection of Juveniles Deprived of their Liberty .....	23
1.3. United Nations Standard Minimum Rules for Non-Custodial Measures.....	27
1.4. United Nations Guidelines for the Prevention of the Juvenile Delinquency .....	28
<b>2. Council of Europe .....</b>	<b>29</b>
2.1. Recommendation on Social Reaction to Juvenile Delinquency.....	29
2.2. Recommendation on Social Reaction to Juvenile Delinquency Among Young People Coming from Migrant Families.....	29
2.3. Recommendation on the Role of Early Psychosocial Intervention in the Prevention of Criminality.....	30
2.4. Recommendation to Member States Concerning New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice.....	31
2.5. Recommendation on the European Rules for Juvenile Offenders Subject to Sanctions or Measure .....	32
2.6. Guidelines of the Council of Europe on Child-Friendly Justice .....	32
<b>3. European Union .....</b>	<b>33</b>
3.1. View on the Prevention of Juvenile Delinquency. Ways of Dealing with Juvenile Delinquency and the Role of the Juvenile Justice System in the European Union.....	33
3.2. Resolution on Juvenile Delinquency, the Role of Women, the Family and Society .....	34
<b>4. Other international documents important for regulating juvenile justice system ....</b>	<b>35</b>
<b>Chapter IV: The Main Models of Reaction on Juvenile Delinquency .....</b>	<b>36</b>

<b>1. Welfare model .....</b>	<b>37</b>
<b>2. Justice model .....</b>	<b>38</b>
<b>3. Restorative Justice Model .....</b>	<b>39</b>
<b>4. Neo-correctional model .....</b>	<b>40</b>
<b>5. Methods in Serbia and Slovenia .....</b>	<b>41</b>
<b>Chapter V: Juvenile Justice Systems .....</b>	<b>42</b>
<b>1. Juvenile crime in Serbia .....</b>	<b>44</b>
1.1. Juvenile criminal law in the Republic of Serbia .....	44
1.1.1. Diversion orders .....	46
1.1.2. Criminal sanctions.....	46
1.1.3. Educational measures .....	47
1.1.4. Juvenile prison sentence.....	49
1.1.5. Basic provisions on enforcement of criminal sanctions.....	50
1.1.6. Main observations .....	51
1.2. Juvenile Correctional Facility in Valjevo.....	52
1.2.1. Work and education .....	54
1.2.2. Programs with juveniles .....	55
1.2.3. Main remarks.....	57
1.3. Juvenile Correctional Institution in Kruševac.....	57
1.3.1. Programs with juveniles .....	59
1.3.2. Work and education .....	60
1.3.3. Main remarks.....	62
<b>2. Juvenile crime in Slovenia .....</b>	<b>63</b>
2.1. Juvenile Criminal Law in the Republic of Slovenia .....	64
2.1.1. Educational Measures .....	65
2.1.2. Juvenile Sentences.....	67
2.1.3. Alternative sanctions .....	68
2.1.4. Main observations .....	69
2.2. Juvenile prison in Celje.....	69
2.2.1. Education and work.....	71
2.2.2. Programs with juveniles .....	72
2.2.3. Main remarks.....	73

2.3.	Correctional Home Radeče .....	73
2.3.1.	Programs with juveniles .....	74
2.3.2.	The levels of the program.....	75
2.3.3.	Special group programs.....	76
2.3.4.	Education and work.....	77
2.3.5.	The main remarks.....	78
<b>3.</b>	<b>Main observations about the juvenile justice system in Serbia and Slovenia .....</b>	<b>78</b>
	<b>Chapter VI: Concluding Remarks .....</b>	<b>79</b>
	<b>Bibliography .....</b>	<b>83</b>
	<b>Annex .....</b>	<b>95</b>

## *Abstract*

All children, regardless of any personal characteristics, have certain rights guaranteed by numerous international instruments. The principles of the best interest of the child and of non-discrimination are brought to the forefront in order to protect the child. Building upon this, juvenile delinquents, are a specific category of juveniles that require specific protection and treatment. This thesis will consider documents from important international organisations such as The United Nations, The Council of Europe, and the European Union, and the national legislations of Serbia and Slovenia. It will be analysed to which degree the latter is in accordance with the former.

Furthermore, this thesis will find that juvenile justice systems in modern society have different characteristics, but that ultimately most have the same aim - reintegration and rehabilitation of juveniles. Moreover, the main features and effectiveness of juvenile prisons and juvenile correctional institutions in both countries can indicate the level to which agreed international standards are implemented and respected in practice.

*Key words: juvenile delinquency, juvenile justice system, international legislation, international standards, national legislation*

## Chapter I: Introduction

The socially unacceptable behaviour of young people has always attracted the serious attention of society (A. Mirić, 2014:1). Juvenile delinquency is an old phenomenon, it was in the middle of the nineteenth century that the terms, ‘adolescence’ and ‘juvenile delinquency’ were ‘discovered’ (Carrabine, Cox, Lee, Plummer, & South, 2009:367). In the middle of the 20<sup>th</sup> century, with the adoption of the numerous international instruments, severe reforms started within many juvenile justice systems. A transfer from justice to welfare methods of reaction to juvenile delinquency occurred, and a considerable number of international documents provided recommendations with the aim of ensuring individual states to implement specific standards into national legislation. According to international standards, the fact that children in conflict with the law belong to an alarming phenomena in contemporary society, means, it is of great importance to treat juvenile offenders with additional entitled rights. They need support and protection in order to rehabilitate and re-integrate into society through education and assistance measures (Ministry of Justice of Montenegro, Juvenile Justice Reform Commission, UNICEF, 2007:5).

In some specific cases deprivation of a juvenile’s liberty, and their placement into a closed institution which they cannot leave of their own free will, is necessary. On the other hand, sometimes, punishment can be the wrong method to respond to the crime. It leads to the reduction of the crime over short period, but, result in far reaching, long term, consequences relating to the criminal career of the juvenile (D. Levitt, 1998:1158). This thesis points out the necessity of respecting the principle of the best interest of the child, principle of non-discrimination, principle of proportionality, and all other international standards when making a decision about sanctions and placement into facilities.

This thesis will aim to address the question, are the legislations in Serbia and Slovenia in accordance to the international regulation? These two counties are on different levels of development, and there are compelling differences between them. For example, Slovenia is a Member State of the European Union while Serbia is a candidate with constant work on reforms, development, and promotion of European standards with the help of the EU (EU Info Centre, 2016:4). Nevertheless, both counties are Member States of the United Nations and The Council of Europe so on that level compliance is expected.

For the purpose of the researching this question, I will research and analyse the numerous documents adopted by the three main organisations: The United Nations, the Council of Europe and, the European Union. These documents contribute with main principles and standards needed to be implemented into national legislations. So, domestic regulation should be coherent with them. In order to verify this, particular focus will be on juvenile justice systems of Serbia and Slovenia. I will also make a comparative analysis of these two systems with international standards. By researching available literature, conclusion can be made that juvenile delinquency has been a central concern of academics dealing with criminology. So, the main beliefs of scholars on both international and national regulation will be presented.

Moreover, different responses to diverse ranges of juvenile crime will be deliberated, with the main focus being the most common models, welfare and justice models. Considering the fact that they emphasise different subjects, or goals, such as juveniles and resocialisation in the welfare model, or crime and responsibility in the justice model, these two are usually used in combination. This method can be found in the systems of the two countries at the centre of this thesis.

Apart from the theoretical part, and analysis of the documents and legislation, an empirical part will also be provided. A separate issue relates to the practice of the four institutions concerning juvenile delinquents in Serbia and Slovenia. In order to collect the information about the functioning and main problems in these institution, I conducted interviews in these facilities. The focus of my questions was on the educational systems in these institutions, and the programs with juveniles. Therefore, this thesis will address the necessary improvements in order to achieve the best interest of the child and re-socialisation as one of the main aims of the punishment, with the principal idea that re-education of the offender leads to re-integration into society, becoming the appropriate member of it (Ignjatović, 2011:168).

The interviews were conducted in Juvenile Prison and Correctional Institution in Serbia with the Head of Service for the Treatment Nataša Stevanović and Radmila Zečević, respectively. Furthermore, meetings were held in Juvenile Prison and Correctional Home Radeče. In the former I talked with a Governor, Zoran Remič, and in the latter with a Head of Department for Educational Program, Vanja Počivalšek.

I decided to conduct the interviews with them, in order to ensure the research contained a practical perspective and main observations and recommendations from the people who are in direct contact with this specific category. Those in direct contact also have ideas about the proper

organisation of the work with juvenile offenders, in order to reduce their chances of committing criminal acts in the future.

The thesis is structured as follows: the first Chapter will provide general observations on juvenile delinquency, the main notions and definitions of: the child, juveniles, and juvenile delinquency, both given by academics and which can be found in the international instruments. The Chapter II examines only the main international documents that regulate the status of the child, because there are numerous examples of these. Moreover, it will demonstrate how the Committee on the Rights of the Child functions, and certain decisions of the European Court for Human Rights relating to juvenile justice. The Chapter III will analyse some specific documents referring to juvenile delinquency and their main recommendations, standards, and rules, in order for Member States to implement them into national legislations hoping to achieve child friendly justice system. Chapter IV will provide a list of other international documents important for the regulation of juvenile justice systems. Chapter V will show the main methods of the state's reaction to juvenile delinquency, and the main figures of the two national systems. In order to understand if Serbian and Slovenian law are harmonised with the international instruments, Chapter VI represents analysis of the national laws regulating juvenile delinquency. Also, the treatment methods of juveniles in the four institutions is presented, with the main observations of the similarities or differences among them. The conclusion gives a summary of the work, as well as a proposal of measures and recommendations for improving the work with juvenile offenders.

## **1. Definition of the child in the conflict with the law**

Nowadays juvenile crime, as a negative behaviour, is one of the biggest issues that contemporary society faces with. It has an important place in social control programs of criminality. The seriousness of this is dual, first of all because of the specific complexity of protection and care of young people as the category in development and the fact that they are "bearers of the future" of country and society, and secondly because of the importance of preventing escalation of crime (Milošević & Milašinović, 2011:495-496).

The children belong to specific category due to their physical and mental stage, process of development and immaturity. On both development of the child and on their deviant behaviour,



three factors make a great impact such as family, the environment and personality (Lugović & Ilić, 2011:386). The family is a base for the formulation of the juvenile personality. Child is going to accept values from the family members through cultivation, socialization and individualization and it will be reflected on his/her attitude towards the crime. Moreover, child accepts some common ways of living through the process of socialization. (Kostić, 2011:479-480) Failure in this can lead to deviant behaviour or even to delinquency. On the other hand, biological and psychological characteristics have also an impact on the deviant behaviour.

With the aim of regulating juvenile delinquency in the law, it is essential to have a clear notion of a child. Universal Declaration on the Rights of the Child, adopted by General Assembly Resolution 217 A, gives definition of a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (Art. 1).

On the other hand, term juvenile does not inevitably correlate with the notion of child (Van Bueren, 1995:171). It is due to a fact that the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice, adopted by General Assembly Resolution 40/30 (hereinafter referred to as The Beijing Rules), adopted by General Assembly Resolution 217 A, in 1948, define a juvenile as “a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult” (Art. 2 (a)). Moreover, notion juvenile offender is also regulated with the Beijing Rules as “a child or young person who is alleged to have committed or who has been found to have committed an offence” (Art. 2 (c)). But the fact that the Beijing Rules leave the legal definition of juvenile to national legislations represents a shortcoming of it. It was partly corrected with the Universal Declaration on the Rights of the Child that says that Article 40 applies to all children up to majority, no matter how is their position regulated in national law.

Moreover, unlike the Beijing Rules, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty define a juvenile as “every person under the age of 18” (Rule 11 (a)).

The age limit of childhood is different from country to country. There are countries where childhood ends at the age of ten, somewhere at thirteen, or eighteen, but there are countries where it ends with 21. That depends on society, culture, tradition and legal regulations (Vučković-Šahović, 2001).

Furthermore, there is no consensus of the criminal responsibility age in Europe and the rest of the world and it is left to each state to identify it. It was listed in the European Rules for Juvenile offenders in the Article 4 and it is said that is 'shall not be too low' (Rule 4). But this determination is not precise and good enough. The age limit for Republic of Serbia and Republic of Slovenia is fourteen.

## **2. Definition of juvenile delinquency**

Juvenile delinquency is considered as a separate category within the general crime due to specifics regarding biological, psychosocial, criminal-political characteristics and because of a special place that juveniles have in the legal system (Skakavac, 2014:1). This negative social phenomenon is characterised by a series of special phenomenological and etiological characteristics that separate it from the criminality of adult persons (A. Mirić, 2014:5). Furthermore, according Skakavac, this phenomenon represents significant part in the total number of crimes in the most countries in the world. (2014:1).

There are different theories of juvenile delinquency. Some academics see it "as an action that violates the law, committed by a person under the legal age" (Burfeind & Bartusch, 2015:6). Furthermore, Glueck and Glueck define delinquency as a "behaviour of children and juveniles punishable by criminal law and that would be defined as criminal if they were committed by adults" (Ignjatović, 2011:15). On the other hand, there is an opinion that it is absurd to define criminality of juveniles as a juvenile delinquency due to the fact that delinquency is the broader concept and that is punitive action (delict), which includes not only the criminal offenses, but also crimes, and economic offenses (Ignjatović, 2015:20).

A. Mirić defines three categories of minors who have problems with the law: deviants, delinquents and criminals. Deviants represent the offenders who with their behaviour violate cultural norms and habits of society and these violations do not result with prosecution. However, it brings a judgment by an individual or a group. Juvenile delinquents have an offensive behaviour which has its psychological, social-psychological, individual causes and reasons and this behaviour violates common forms and patterns of behaviour. The last, criminals are

psychophysically healthy persons who act with a high degree of certainty that that will lead to the execution of a criminal offense (2014:6).

According to Skakavac, characteristics of juvenile crime can be put together: it is in constant growth; it gets new, severe and complex forms; it increases in violence and brutality; crimes committed by groups emerge more; organised crime has upward trend when it comes to the recidivism and so on (2014:3).

## **Chapter II: International Instruments Regulating Status of Child**

Nowadays, children's rights are of great importance for international community and they are regulated with numerous international instruments and treaties. Being a vulnerable, or in specific category, there is obvious need to protect juveniles in every aspect of their lives (family, education, freedom of expression, health, conscience and religion, protection against exploitation, protection of the children with special needs, in armed conflicts and so on). The children who have troubles with the law and are involved in criminal acts require a compelling need for particular regulation on international level. Evolution of the international regulation in the field of juvenile delinquency was in parallel process with the development of children's rights.

Moreover, the evolution of children rights had started in the middle of the 20<sup>th</sup> century and it followed the involvement of human rights in general and adoption of human rights generations. According to Kovačević, the first generation is the generation of civil and political rights and it brings integral protection of the child and family. Second generation (social, economic and cultural rights) "are the rights that previously belonged primarily to adults, but then got closer and adjusted to children and their needs with its contents" (2013:71).

The children rights are part of the numerous international instruments that provide both their rights in general and the rights of the juveniles deprived of their liberty. Some of these documents have obligatory character for the member states, for example, the UN Convention on the Rights of the Child, and some of them represent soft law with a form of recommendations how to react on a juvenile crime such as the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice and other. Furthermore, this is organised on the national levels with domestic laws in order to organise this area more specifically to ensure the achievement of the goals.

Here will be analysed documents from international organisations that manage the children rights or that can be of interest for execution of criminal sanctions and represent secondary source of law: Convention on the Rights of the Child with the Committee on the Rights of the Child, Universal Declaration of Human Rights and European Convention on Human Rights. Due to the number and scope of documents it limits possibilities for more in depth analyses.

## 1. Universal Declaration of Human Rights

Universal Declaration of Human Rights (hereinafter referred to as the UDHR) was adopted and proclaimed by the United Nations General Assembly on 10 December 1948 and it represents “a mixture of the rights of the most diverse nature” (Tomušat, 2006:77). It proclaims fundamental human rights that should be universally protected. Moreover, it highlights, in Article 2, that principle of non-discrimination is crucial no matter of race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status. Provision which refers also to a person deprived of their liberty is in Article 5, and proclaims that no one can be subject to torture or cruelty, inhuman or degrading treatment or punishment. Next, according to Article 9, no one can be subject to arbitrary arrest, detention or exile.

There are critics of the UDHR. One of them is the fact that everyone has the right to live in society where all the rights from the UDHR are fulfilled (Art. 28, the UNHR). The critique is the fact it does not say how it can be done (Tomušat, 2006:78). Moreover, not having significant number of countries is considerable drawback. This declaration is not legally binding. However, previous mentioned rights need to be respected. Also, “the rights set onward in the UDHR may not have been recognised in all countries of the world, but today people are increasingly demanding and gaining respect for their rights and freedom” (Alfredsson & Eide, 1999:25).

## 2. European Convention on Human Rights

Council of Europe was established after the World War II with the aim to prevent atrocities to happen again. Three main goals of the Council of Europe are: respect of human rights, democracy and rule of law. In order to achieve this, Assembly proclaimed European Convention on Human Rights in Rome 1950 (hereinafter referred to as the Convention). It has been believed that “the Convention remains by far the most successful manifestation of the aspiration of the UDHR and that it has created the most effective system for international protection of human rights in existence” (Bates, 2010:2).

It is legally binding document which means that member states are accepting the obligation to respect its provisions. Only Article 5 and 6 refers directly on juvenile delinquency, nevertheless it is still significant.

Firstly, prohibition of discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status is regulated under Article 14. That implies on minors as well since these rights belong to everyone.

Prerequisite for becoming a Member State of the Council of Europe is to abolish death penalty. Next, torture, inhuman or degrading treatment or punishment is strictly forbidden under Article 3. Great importance for the juveniles are the right of liberty and security, right to a fair trial and no punishment without law, that are regulated under Article 5, 6 and 7, respectively.

No one can be deprived of the liberty except when it is prescribed by the law and Article 5, 1(d) says that detention “of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority.”

The right to a fair and public hearing by a court is authorized by the law. Even though the trial needs to be public, there is a possibility to exclude public from the trial if it is “in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties require so” (Art. 6, 1, the Convention). Everybody is presumed innocent until proven guilty is a vital provision.

Act needs to be listed in criminal law as a crime in order to make it possible for someone to be held guilty (Art. 7, the Convention).

The Council of Europe is important organisation for many fields of human rights, such as fight against discrimination, xenophobia and organised crime, but also to make all human rights of juveniles deprived of the liberty to be respected. It “strives to stay loyal to the values that traditionally distinguish juvenile criminal law in Europe. So, despite insisting on the clear defined position and responsibility of juvenile offenders, the Council of Europe opposes a trend of repressive treatment towards juveniles, and strives to popularize education and to support the full reintegration of these people” (Kovačević, 2013:105).

## 2.1. European Court for Human Rights

Significance of the Convention is that there is a protective mechanism that can be used when member states do not respect it. European Court for Human Rights (hereinafter referred to as the ECHR) is established for this purpose and it proclaims that states have liberty to decide how they would fulfil their obligations and that they don't need to transfer them from the Convention directly into their national legal systems (Tomušat, 2006:139). However, the ECHR made important decisions about juvenile deprived of the liberty that needs to be respected.

One of the important decisions is the one from the case *Adamkiewicz v. Poland* where is stressed out that the best interest of the child should be protected. Moreover, the age of juvenile, level of maturity and intellectual and emotional capacities need to be taken into account.

The ECHR admits that the detention in prison can be used, but it needs to be the last resort and it needs to last for the limited period of time. Next, every specific case and personality of person should be considered. Finally, the ECHR agrees that minors should be separated from adults (*Nart v. Turkey*).

*Dushka v. Ukraine* pointed out the vulnerability of the child while deciding if the treatment can be qualified as inhuman or degrading.

Concurring opinion from two judges in the case *Nortier v The Netherlands*, pointed out that minors are entitled to the same fundamental rights as adults, whereas personality, its development and limited social responsibility should be considered while applying the Article 6 (the right on a fair trial). Furthermore, states should provide the children with the special care and assistance in order to fully assume responsibilities in the communities.

## 3. Convention on the Rights of the Child

The main international document in area of the rights of the child is Convention on the Right of the Child (hereinafter referred to as the CRC) that was adopted by General Assembly Resolution 44/25 on 20 November 1989. It is the fundamental world-wide document that deals with children in general, concerning all aspects of children's lives, and also the situation when children have the problems with the law. It is argued that "the Convention was an overdue response

to the urgent need to elaborate a legally binding document that would focus exclusively on the specific needs and interests of the child, which, as will be seen below, differs in important aspects from those for adults” (The Rights of the Child in the Administration of Justice, 2008: 339).

Additionally, it is the first legally binding document for children's rights. Importance of the CRC, compared with other documents, is that it represents the instrument that combines all groups of human rights (civil, political, economic, social and cultural rights) of every child with respect of principle of non-discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Other documents separately regulate one of these areas.

There are four articles of the CRC that represent General Principles due to their importance for all children. Non-discrimination (Art.2, the CRC), the best interest of the child (Art.3, the CRC), the right to life, survival and development (Art.6, the CRC) and the right to participate are fundamental rights for the all children (Art.12, the CRC) (Lee, 2009). The best interests of the child must be in the centre of any decision-making process and adults need to consider what is the best for a child before deciding. Every person has inherent right to live so it is crucial to make conditions for children to be healthy and to survive. In decision-making process adults need to give children a chance to give opinion and take it into account. Yet, it is needed appropriate child maturity to express their view (Convention on the Right of the Child, 2014).

The CRC is one of those conventions that is ratified by most of the countries in the world. That shows the importance of the child status and occupation and it is promoted by significant number of national administrations. With ratification of this Convention, no state can say that attitude towards children is its internal thing, but states are obliged to implement the standards into domestic laws (Žunić-Cicvarić & Cicvarić, 2010:2). However, “it is clear that a considerable number of the Member States still have a long way to achieve full compliance with the Convention” (Vučković-Šahovic, 2011:227).

The CRC relies on the matter that the United Nations have announced that childhood is entitled to special care and assistance, that provides guidelines for a specific protection of minor offenders.

The CRC gives a definition of the child under Article 1 as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”. But the beginning of childhood is not defined and period when it starts (with the moment of conception



or at the birth) depends on the culture and tradition of specific countries (The Rights of the Child in the Administration of Justice, 2008:401). Nevertheless, defining the age at which child starts to be mature and until when the specific rules need to be applicable on children, is of crucial importance because it is also used to establish the lines for age responsibility of juvenile offenders. But this provision is not the strict one, so there is a possibility in many countries to become adult in younger age.

When it comes to criminal responsibility of a child, the CRC regulates it under the Article 37. A basic requirement for protection against torture or other cruel, inhuman or degrading treatment of the child is stressed out. Capital punishment and life imprisonment cannot be proclaimed to the person younger than eighteen years of age.

Additionally, the same Article 37 regulates the conditions of a deprivation of liberty. Unlawful or arbitrary deprivation of liberty is forbidden and imprisonment needs to be used as the last resort and it may last the shortest time possible. When it comes to a deprivation of liberty, the child should be treated in human way with respect of his or her needs and age. While the child is in detention, separation of the children from adults is important, unless it is in the best interest of the child. Also, contacts with family need to be provided. Furthermore, the child has a right to a legal help, to challenge the legality of detention before the court or other authority and the right to resolve such a request by urgent procedure.

Article 40 of the CRC provides necessary characteristics of the procedure for determination of possible responsibility of the child for offense. In the procedure, it is important to respect the human rights of the child, fundamental freedom, and the age of the child. Re-integration and positive role in society is a final goal of procedure.

Also, procedural rights of the child are also guaranteed such as: presumption of innocence until proven guilty; to be informed about the charges; to be processed without delay by adequate bodies; not to be forced to give testimony or to confess guilt; right to free interpreter when child does not speak the procedural language and privacy of the child is crucial (Art 40, para. 2, the CRC).

The Convention demands that Member States adopt laws, procedures and necessary institutions specialized for work with children. In penal code, it is especially important to determine a minimum age under which a child cannot be criminally responsible.

Final provision of Article 40, para. 3(b) says that “care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programs and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offense” (the CRC).

Convention on the Rights of the Child is, as an obligatory document, of great importance for ensuring children rights in general, but also the rights of child delinquents. Due to a fact it includes wide range of children rights, it is understandable that the reaction on juvenile delinquency is not regulated more specifically (Kovačević, 2013:84). Despite that, the importance of the Convention for rights of juvenile offenders is indisputable.

### 3.1. Committee on the Rights of the Child

With ratification of the Convention on the Right of the Child, member states are obliged to respect its rules. In order to make an impact on member states to implement CRC into domestic legislation, the UN, with proclamation of its organisation in the CRC, established Committee on the Rights of the Child. The body consists of eighteen independent experts with the purpose to monitor implementation of the CRC and its three Optional Protocols (Committee on the Rights of the Child, 1996-2017).

Committee considers periodical reports which Member States use to inform this body every five years about the taken measures with the aim of improvement of the status of the child. Moreover, Member States are bound to submit an initial report in the period of two years after ratification of the Convention. If additional information is needed, Committee can ask the state to provide necessary information (Committee on the Rights of the Child, 1996-2017).

Convention proclaimed that Committee members needed to meet once a year and duration of the sessions is not determined. However, due to a considerable amount of work, General Assembly allowed them to meet two times per year or even more often (Kovačević, 2013:86).

Committee provides Member States with suggestions and recommendations according to received reports and data. The Committee's main drawback is the fact that it does not have mechanisms to make a country act in the way the body thinks it should or to implement particular

facts. The recommendations are not obligatory to the submitter of the report and they do not need to change, improve, and promote certain things that are found as a deficiency by the Committee. Nevertheless, the Committee has an impact through political pressure on Member States when it comes to breach of articles.

Another shortcoming of this body, until recently, was the lack of possibility for individuals to submit the violation of their rights proclaimed by the Convention. But this was changed with third Optional Protocol on a communications procedure in 2011.

## **Chapter III: Specific Documents Regulating Juvenile Delinquency**

Despite previous analysed instruments, there are more specific ones regulating this crucial group of the juveniles that should have more specified protection due to a fact that they belong to the vulnerable category of people which need particular treatment in order to make possibilities for them to integrate into society. These instruments can be divided by organisations that adopted them (the United Nations, the Council of Europe and the European Union).

Even though these documents represent the soft law, they have decisive role. Despite of the fact that they are not binding, they make an impact on the states to comply with the proclaimed standards. It is because of the prestigious organisations which adopted them, and usually states want to be respected in international community, so they try to implement at least some of the recommendations into national legislations. But the question that stays is whether they respect them in the practice. Moreover, soft law leaves the space for the national legislators to adapt rules to the national conditions and it is of great importance because the Member States are in different stages of development and all rules cannot be applied to all of them (Kovačević, 2013: 75-78).

### **1. United Nations Documents**

Due to a fact that the United Nations is the one of the most important international organisation with the significant number of the member states (193 countries), the importance of this organisation is obvious. The UN works in many fields and one of them are human rights. All this point out that documents adopted by this organisation, are essential.

The UN noticed that the juvenile delinquency started to increase since the 1990s and that there is a category of children in danger of becoming a delinquent due to difficult circumstances they live in. Moreover, “the problem of juvenile delinquency is becoming more complicated and universal, and crime prevention programs are either unequipped to deal with the present realities or do not exist” (World Youth Report 2003: The Global Situation of Young People, 2004:190). So, in order to deal with this, numerous documents were adopted.

## 1.1. United Nations Standard Minimum Rules for the Administration of the Juvenile Justice

These rules were adopted by General Assembly resolution 40/30 of November 1985 and they are known as the Beijing Rules.

It was the first comprehensive document with the basis for successful work of national juvenile justice systems, but also for states reaction to juvenile delinquency and protection of the child in these situations. It is emphasized that “juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society” (Art. 1.14, the Beijing Rules). In spite of that, The Beijing Rules is not a treaty so the document is not binding for Member States. The Article 1.5 says that “these rules shall be implemented in the context of economic, social and cultural conditions prevailing in each Member State.” Nevertheless, the question is if the poor states, which cannot deal with the problems concerning majority of the children and population, are capable of implementation of these rules and improvement of juvenile justice system (Van Bueren, 1995:171).

The document proclaims the rules need to be respected from the moment of deprivation of the liberty till the moment of leaving the institution and it is divided on the next six sections which show procedural phases that juvenile needs to go through during the criminal procedure.

Among common principles in the part one, it is also listed as necessary for Member States to make conditions for proper community life in order to support personal development and education without criminal and delinquency (Art. 1.12, the Beijing Rules). Moreover, “sufficient attention shall be given to positive measures that involve the full mobilisation of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law” (Art. 1.13, the Beijing Rules). From these rules, it can be concluded, that the effective suppression of juvenile delinquency requires a responsible attitude of the society towards juveniles, both at the stage before the manifestation of anti-social signs behaviour and later (Kovačević, 2011:90).

Moreover, each country is left to decide the age its own scope for criminal responsibility (Art. 4.1, the Beijing Rules).

The well-being of the juvenile needs to be the base (Art. 5.1, the Beijing Rules) in order to achieve successful re-integration of the juvenile as the main goal of the punishment.

Part two regulates investigation and prosecution which provide information about initial contact, diversion, specialisation within the police and detention pending trial. The last one is of big importance due to a fact that it highlights the significance of using the detention pending trial as the last resort and when it is used, it is crucial to be as short as possible. Furthermore, alternative measures should take their place in any occasion when it is possible. Also, juveniles in custody should be separated from adults. The Standard Minimum Rules for the Treatment of Prisoners which were adopted by the UN should be applied on them. In detention care, protection and other assistance related to their age, sex and character shall be provided to all minors (Art. 13. the Beijing Rules).

Principle of the last possible use of institutionalisation is proclaimed by the Article 19 and it means that juvenile offenders should be placed in institution as the last resort and the period of staying should be as short as possible. Also, the Article 22.1 stresses out the need for professionalism of all people who deal with offenders as one of the prerequisite for successful impact on resocialisation of minors.

Next, part four deals with non-institutional treatment and it emphasizes the necessity for any kind of assistance with the aim to help in corrective process. Help can be provided in education, employment of juveniles and so on by volunteers, voluntary organisations and local institutions with cooperation of family of juvenile.

Part five applies to treatment in institutions. Some of the main rules are that juveniles should be treated in the way that would help them in re-socialisation and contribute to their inclusion in society. Minors should have access to education in order to leave institutions with appropriate education or skills necessary for certain jobs. As it was mentioned in one of the previous rules, juveniles should receive protection, care and assistance in any area and they should be separated from adults (Art. 26.2-3, the Beijing Rules). Furthermore, female juveniles need special attention based on their needs and problems (Art. 26.4, the Beijing Rules). Moreover, conditional release should be used as much as it is possible and after release the juveniles would

receive all necessary help and they would be under the supervision of authoritative organ (Art. 28.1-2, the Beijing Rules).

Some of the aims of the Beijing Rules are: improvement of the wellbeing of juveniles that have trouble with the law; condition improvement in the state for successful growth of the child; motivation of the state to develop diverse programs that would decrease the number of the juveniles that go through formal criminal procedure; well organised juvenile justice systems in order to protect juveniles, employment of professionals dealing with this specific category and having rules consistent with other laws in the county (Vučković-Šahović, 2011:378-379).

The fact that the Beijing Rules were the first instrument that combined juvenile justice in one document and that all instruments adopted afterwards were supplement to this one shows the importance of it. Adoption of it was turning point in regulation of this vital area and started new ways of approaching and regulating of this area.

## 1.2. United Nations Rules for the Protection of Juveniles Deprived of their Liberty

The document (hereinafter referred to as the JDL Rules) was adopted by General Assembly resolution 45/113 on December 1990 and complements to the Beijing Rules. Moreover, it is the most comprehensive document with the minimal standards and procedures which need to be followed in the cases of the deprivation of liberty of juveniles. These standards are compatible with human rights and fundamental freedoms.

The main aim of it is successful assimilation in society. In order to achieve this, it is important to make public awareness that minor offenders should be integrated and accepted. That can be done with their interaction (Art. 8, the JDL Rules). The principle of non-discrimination needs to be followed with no discrimination of any kind such as race, nationality, ethnicity, sex, age, social status or any other judgment (Art. 4, the JDL Rules). It is important that “deprivation of liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases” (Art. 2, the JDL Rules). Moreover, the Article 6 of the JDL Rules says that minors need to have translator for their national language if they do not

understand the language in detention facilities or the language of a procedure, especially for medical examination and during disciplinary proceedings.

The JDL Rules provide definitions crucial for dealing with juveniles deprived of their liberty. Unlike the Beijing Rules, they give the definition of juveniles, with the age limit of the age of eighteen. Moreover, they leave to the national laws to determine the limit under which child should not be deprived of his/her liberty (Art. 1 (a), the JDL Rules). It is important to emphasize that these rules are applicable to all the types of detention centres for juveniles (Art. 15, the JDL Rules).

The Article 17 of the JDL Rules gives guidelines for the treatment of juveniles who are arrested or waiting for trial with importance of presumption of innocence. Furthermore, if it is inevitable, detention needs to last the shortest possible time. Connection with lawyer and respect of the privacy and confidentiality should be provided (Art. 18 (a), the JDL Rules). Important thing is to provide educational and work opportunities to juveniles as example of good practice because these minors should not have different treatment from the convicted juveniles (Art. 18(b), the JDL Rules).

The way how the facilities should be organised is also covered by this document and it consists of the next chapters:

A. **Records** (reports, legal, medical records, records of disciplinary measures and other) should be confidential and after the release, they should be sealed (Art. 19, the JDL Rules).

B. **Admission, registration, movement and transfer** proclaim the standards for information needed about every juvenile in the institution and they should be collected as soon as possible after coming to the institution (Art. 21, the JDL Rules). Also, parents or guardian shall be informed about the transfer of juvenile organised in a way which is not going to influence on their dignity or produce suffering (Art. 22 and 26, the JDL Rules). Articles 24 and 25 proclaim that rules of the facility should be provided to a minor and all of them should be clear to him or her.

C. **Classification and placement** (Art. 27-30, the JDL Rules): juvenile after acceptance into the facility should be interviewed, it should be done psychological, medical examination and after that the individual plan of treatment is required to be made. All individual characteristics such as age, personality, sex, type of offence, physical and mental health need to be considered while making the personal program. It is important to separate juvenile and adults in detention



centres. However, they can be put together if it was found that it can have positive effects on juvenile, but only after detailed analysis of adults. Also, open centres with minimum security measures and with minimum number of offenders, should be opened with the aim of bigger possibilities for the integration in society after individual treatment.

D. **Physical environment and accommodation** should be organised in the way to make an impact on the successful treatment. Also, privacy, association with other juveniles, being a part of the sport activities and physical exercises are important. Every juvenile should be provided with individual clean bed. Next, clean sanitary installations shall be stationed to provide privacy. It is important to allow juveniles to have their own adequate clothing in institutions and not to degrade or humiliate them. And final, juveniles need to be secured by healthy food and water with respect of culture or religion.

E. **Education, vocational training and work** (Art. 38-46, the JDL Rules): one of the most important things is to provide juveniles with possibility to continue their schooling that is vital for their re-socialisation. Education should be organised in schools outside the institution and after the release they need to have opportunity to continue with education. Minorities or minors with difficulties need to have special educational system. After finishing school in detention centre, certificate needs to be without any indicator that they finished it in these facilities. In order to help them finishing school, every facility needs to have a library with necessary literature. When it comes to vocational training, juveniles have the right on choosing type of work that they want with the respect of the standards for child labour. While working, they should receive a salary for their work. Also, after leaving institution the help with finding a job should be enabled.

Education is important for many aspects of juvenile future life and represents the way of rising work opportunities for juveniles and that leads to reduction of their participation in crime (Hjalmarsson & Lochner, 2012).

F. **Recreation** is regulated with the Article 47 and is important part of the treatment. Time for free exercise in the open space needs to be organised. Furthermore, free time for leisure actions is important with possibility of development of art skills of juveniles. It is needed to provide possibility of participation in programs of physical education and therapy.

G. **The freedom of religion** needs to be respected with grant of attending the services, having books, religious items and meeting with religion representatives (Art. 48, the JDL Rules).

H. **Medical care** needs to be provided preventive and remedial through the health institution in the community (Art. 49, the JDL Rules). Physical health is important and examination needs to be done after coming to the facility in order to detect if illness or some condition that needs to be treated occurred (Art. 51, the JDL Rules). Article 54 proclaims that programs for drugs or alcohol addicts should be adjusted to personal characteristics.

I. **Notification of illness, injury and death** (Art. 56, the JDL Rules) needs to be provided to family members or guardians within 48 hours.

J. **Contacts with the wider community** as it was mentioned before, is significant part of the return of juveniles in society and they need to have contact with their family and friends through allowance to leave centre and visit them, to receive a visits from them, writing or telephoning them (Art. 59-62, the JDL Rules).

K. **Limitations of physical restraint and the use of force:** caring and usage of weapons should be prohibited in these facilities with exception of cases when it needs to be used for the shortest possible period of time and according to the law and only after all methods have be exhausted (Art. 33-34, the JDL Rules).

L. **Disciplinary procedures** are regulated with the Article 66 and they need to be taken with respect of the dignity and safety of juvenile and cruel or degrading treatment is prohibited.

M. **Inspection** needs to be conducted regularly, independently and with inspection of every person working in institution (Art. 72, the JDL Rules). Moreover, juveniles have a right to **complain** about their treatment (Art. 75, the JDL Rules).

N. **Return to the community** is one of the aims of punishment with possibility to continue education or work. It should be done through assistance of certain agencies (Art. 80, the JDL Rules). Due to a specific category of juveniles, it is crucial to have such institution for post-penal help because the possibilities for repeating a crime are higher if there is no control over juveniles.

O. **Personnel** (Art. 81-87, the JDL Rules) that works with juveniles in detention facilities, on any position, should be qualified; educated; trained on youth psychology and international rules and human rights of the child; with respect of juvenile's dignity; to make sure that physical and mental health will be protected and it should to be sufficient number of them. There should be effort to make life in these institutions similar as much as possible to the life outside of them.

It can be concluded that these comprehensive rules cover all human rights that need to be respected in the case of detention of the juveniles. Also, the JDL Rules contain most of the regulations from the European Prison Rules adapting them to the specific rights and needs of the children (Vučković-Šahović, 2011:408).

### 1.3. United Nations Standard Minimum Rules for Non-Custodial Measures

The rules were adopted by the Resolution 45/110 of the United Nations by the General Assembly in 1990 and they are called Tokyo Rules.

Responding to juvenile crime on repressive ways and just locking juvenile up are not effective in suppression of the juvenile crime. Therefore, the Tokyo Rules promote the usage of the non-custodial measures for the criminal offenders in order to reduce the use of prison punishment. Human rights, social justice and rehabilitation need to be taken into consideration while proclaiming non-custodial measure.

The Tokyo Rules especially insist on establishment of the balance between “the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention” (Art. 1.4, Tokyo Rules).

In the Article 5.1 it announces that the police and the prosecution service should be given power to discharge the offender or to proclaim alternatives if they believe that it is not crucial to proceed. The non-custodial measures are listed in the Article 8.2 and they are: verbal sanctions, such as admonition, reprimand and warning; conditional discharge; status penalties; economic sanctions and monetary penalties, such as fines and day-fines; confiscation or an expropriation order; restitution to the victim or a compensation order; suspended or deferred sentence; probation and judicial supervision; a community service order; referral to an attendance centre; house arrest; any other mode of non-institutional treatment and some combination of the measures listed above.

The Rules emphasize the big importance of the community and its role in prevention and suppression of the juvenile delinquency so it encourages volunteers and other community resources to participate (Art. 17-18, Tokyo Rules).

## 1.4. United Nations Guidelines for the Prevention of the Juvenile Delinquency

This instrument was adopted by the United Nations General Assembly on December 1990 and it is called Riyadh Guidelines. With numerous rules (66 in total), due to a fact it is not legally binding instrument, it has a purpose to make an impact on the Member States (Ignjatović, 2010:54):

1. To occupy young people with useful social activities that can contribute to their positive development;
2. To stimulate the healthy development of children;
3. Preventive programs should take into account the children's contribution to society and enable their well-being;
4. To develop programs and services for young people in the community;
5. To avoid the punishment of the young people and include helping young people to achieve different forms of education; take measures to eliminate motive or the possibility of committing offenses and so on.

The stress is put on the family, education and the community of young people. First, family, as the central surrounding for socialisation, should be preserved with governmental and social efforts (Art. 12, Riyadh Guidelines). Next, education is crucial category and in the Article 20 it is emphasized that “governments are under an obligation to make public education accessible to all young persons.” While particular attention to the children who are at social risk is essential. Finally, community needs to develop or strengthen services and programs “which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counselling and guidance to young persons and their families” (Art. 45, Riyadh Guidelines). It can be concluded that all three categories should cooperate in order to accomplish the goals, prevention of the juvenile delinquency.

## **2. Council of Europe**

Instruments from the Council of Europe provide with regional regulative for the managing juvenile delinquency. It is important to highlight that these organisations recognise the juvenile delinquency as a problem, apart from other things that are in its focus and in order to deal with this, the Council of Europe adopted numerous documents.

Also, there is significant number of documents that are relevant to juvenile justice and bearing in mind that instruments from this organisation are oriented on regional level, some main recommendations are going to be listed.

### **2.1. Recommendation on Social Reaction to Juvenile Delinquency**

The focus of this recommendation, adopted in 1987, is that all measures towards juvenile offenders should have educational character due to a fact that juveniles are in the process of a growth and development. There is a need to take that into account while dealing with this specific category of people that has specific needs. It suggests that both a social integration of juvenile delinquents and prevention of the offenses are important. Prevention can be achieved by adopting policies that support young's people integration by assistance in schools or organisations dealing with young people.

Importance of mediation is proclaimed with the aim to prevent entering into criminal justice system. However, when it comes to the prosecution, the rules needed to be respected are listed.

### **2.2. Recommendation on Social Reaction to Juvenile Delinquency Among Young People Coming from Migrant Families**

Adoption of this recommendation in 1988 put the lights on the second generation of migrants in Europe that deserve distinctive attention. It is essential to provide possibilities for their integration into society.

In the focus of this recommendation are policies for social integration of people who do not belong to national majority as well as adoption of legislations and practices with no discriminatory treatment of non-nationals. Moreover, it is stressed out promotion of their accession into society by gaining the nationality; participation in facilities for young people; providing assistance to the family and providing them opportunity to educate.

It can be concluded that these children are marginalised and for that reason there are more possibilities for them to commit a crime and that it is crucial to integrate them and provide them with possibilities not to be discriminated from majority in the Europe.

### 2.3. Recommendation on the Role of Early Psychosocial Intervention in the Prevention of Criminality

Committee of Ministers adopted this Recommendation in 2000. It calls attention to changes in crimes that young people commit and the fact that those who commit an offense in younger age are most likely to become serious criminals. Children are in the process of growth, mentally and physically, so there is a need to work on their socialisation and in order to achieve that, inclusion of family and friends is crucial.

It defines prevention of criminality as “means, measures and activities aimed specifically to reduce the likelihood of engaging persistent criminal behaviour in the future as opposed to crime prevention by reducing the number and seriousness of offences committed” (Rec. I). so, it put an accent to individual work with juveniles.

Member states should work on prevention of the crime and promotion of protective factors with focus on the primary environment of child (family, school, neighbourhood and so on) and all in the best interest of the child (Rec. II, 1.24). It is recommended to identify and work with children in risk. The programs of prevention and interventions should be implemented into national bodies (Rule IV (11)). Moreover, the cooperation of educational, health, welfare centres, the police, voluntary and private sector is important (Rec. IV (14)).

## 2.4. Recommendation to Member States Concerning New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice

This recommendation was adopted in 2003 and despite the fact that juvenile delinquency is not climbing sharply it points out the weight of this phenomenon and need for the new ways of dealing with it.

It is necessary to implement strategy based on community to prevent juvenile to make offences with crucial actors such as family, school, neighbourhood and peers (Rec II (2)). So, it is clear that cooperation between state and non-state actors is vital thing.

For reaching the aim, the list of the new responses is given in the part III with some main points:

1. Maintenance of alternatives to prosecutions is the main thing;
2. The necessity of the juvenile needs to be respected, with the respect of the level of his or her development;
3. Usefulness of involvement of the family and taking responsibilities; usage of the mediation, restoration and reparation to the victim whenever it is possible;
4. When it is determined that adult under the age of twenty-one are not accountable for their acts as full adults, the procedure should be the same as the one for juveniles;
5. Principle of proportionality is crucial with the shortest possible proceeding;
6. While juveniles are in the custody, specifics of the group they belong to such as their status, age, and special requirements should be considered;
7. The custody period is determined not to be longer that six months;
8. Alternatives to custody should be in usage, for example placements with relatives, foster families or other forms of supported accommodation and
9. From the beginning of the sentence it is very important to start working on the preparation for the proper life in healthy environment after releasing from the institution. Education and employment of juvenile are crucial to adopt responsibilities ant to achieve re-socialisation.

Kovačević concluded that “the new ways of combating juvenile delinquency require constant modernisation of methods, but also recognition of risk factors such as social marginalisation, school failure, negative influence of the media and others” (2013:116).

## 2.5. Recommendation on the European Rules for Juvenile Offenders Subject to Sanctions or Measure

The Recommendation was adopted in 2008. In the preamble, it lists all main international documents that regulate juvenile delinquency and recommends implementation of the standards listed in them. Member States should improve principles mentioned in these documents in their national legislation and practices.

The goal of document is to respect the rights and safety of juveniles who are facing sanctions or measures. The best interest of the child should be considered while pronouncing the sanctions and the sanctions should be proportional to the committed crime, but according to the individual circumstances to every juvenile offender.

## 2.6. Guidelines of the Council of Europe on Child-Friendly Justice

The Council of Europe adopted these guidelines to determine that the juvenile justice is always friendly towards children “no matter who they are or what they have done” (Council of Europe, 2011:7). Moreover, they are not focused only on juvenile delinquency and juvenile delinquents, but also on proceeding that refers to divorce, adoption, migration, violence.

The newest document is adopted in 2010 due to a gap in law and practice when it comes to the right to a fair trial. All negative sides in the past effected the Member States to make new guidelines due to “the need to enhance access to justice and improve the treatment of children in judicial and non-judicial proceedings. Moreover, document stresses out the importance of raising the knowledge and awareness of professionals working with children in proceedings and also importance of adapted training in order to guarantee the best interests of the child, and the good administration of justice” (Council of Europe, 2011:38). Furthermore, in 2011 revised version was released.

Processes that conduct before and during proceeding are defined in details. Fundamental principles listed in the guidelines are: participation (rights to be informed, consulted and involved); the best interest of the child; dignity of the child needs to be respected; principle of non-discrimination on any ground and the principle of rule of law (rights on fair trial, legal advice, to



access to courts, the right to appeal, avoiding any delay). Moreover, keeping child safe from harm and new victimisation is one of the important conditions needed to be achieved.

The Guidelines provide comprehensive measures and instruments in order to reformat the juvenile justice systems bearing in mind specific characteristics of juveniles as special category.

### **3. European Union**

When it comes to the EU, it is clear that juvenile delinquency is not in the focus of the work of this organisation (Kovačević, 2013). The EU was established as economic organisation and it was evolved into political one and until now has stabilised democracy and security in Europe (35 koraka ka Evropskoj uniji, 2014). Nevertheless, the EU pays attention to this negative phenomenon.

Documents adopted by the European Union are important for both Serbia and Slovenia due to a fact that Serbia is a candidate for admission to the EU and Slovenia is a Member State since 2004. Serbia tends to achieve all conditions in order to fulfil all prerequisites for admission into the European Union. In that process, there is a need to respect the rules and the laws of the EU. Furthermore, Slovenia as a Member State has an obligation to harmonise their national legislation with European Union.

#### **3.1. View on the Prevention of Juvenile Delinquency. Ways of Dealing with Juvenile Delinquency and the Role of the Juvenile Justice System in the European Union**

The document was adopted by the European Economic and Social Committee Resolution 2006/C 110/13 in 2006.

It expresses a common believe that, in order to combat the juvenile delinquency, it is imperative to develop strategy in the EU. But it is hard because Member States have different approaches to definition of juvenile delinquency, diverse juvenile justice systems based on dissimilar models, punitive systems, and differences between the ages of juvenile criminal responsibility.

The opinion lists the economic and socio-environment factors influencing juvenile delinquency, such as a dysfunctional family, poverty that leads to marginalisation, academic failure, unemployment, diverse media and violent content, drugs and toxic substance, personality of the juvenile, failure of school to pass the values. In order to fight with this, the strategy that needs to be developed as a main guideline should be for the best interest of the child.

It points out that all documents adopted by the United Nations and the Council of Europe (mentioned in previous pages), introduce the new model of the reaction on the juvenile delinquency – responsibility model and that that model has been adopted by numerous Member States in Europe.

Moreover, it stresses out the fact that good policies are focused on prevention educational treatment in the community or centres and on integration of youth. Also, young offenders are marginalised and it is essential to decrease this. But not just that, disabled people, ethnic minorities, the elderly are also socially excluded.

It stressed out the necessity of the unity on the European level to combat the juvenile delinquency. Minimum standards and guidelines between Member States should be achieved within the juvenile justice policy.

### 3.2. Resolution on Juvenile Delinquency, the Role of Women, the Family and Society

Resolution on juvenile Delinquency, the role of Women, the Family and Society was adopted in 2007 by the European Parliament.

In Introduction Section A of Resolution is stressed out that the juvenile delinquency is to a greater extent more dangerous than criminality of adult due to a fact that it affects a particularly vulnerable section of the population during the formative years of personal “development, exposing juveniles at a very early stage to the risk of social exclusion and stigmatisation.”

Moreover, it pointed out that main factors leading to juvenile delinquency are: failure of education systems to pass on social values, lack of appropriate model within the family, poverty, social exclusion, racism and so on.

The EU calls for development of special national programs with the aim to achieve rehabilitation and re-integration of the juvenile offenders into society. In other words, it emphasizes the need to create the national strategies where the main role is going to belong to the state, but also the regional and local authorities, civil society organisation, family, school and neighbours with the accent on the securing financial resources. Social inequalities and countering social exclusion and poverty are imperative. Also, families, schools and society should work together to fight juvenile delinquency.

Moreover, Member States should adopt minimum standards grounded on the Beijing Rules, with the three pillars: prevention, judicial and extrajudicial measures and social integration/re-integration (Art. 22).

#### **4. Other international documents important for regulating juvenile justice system**

There are significant number of international documents that represent secondary source of law about execution of criminal sanctions towards juveniles such as:

1. The UN Charter,
2. International Covenant on Civil and Political Rights,
3. International Covenant on Economic, Social and Cultural Rights,
4. European Convention on the Exercise of Children's Rights,
5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the UN,
6. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; adopted by Council of Europe,
7. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment the UN,
8. CPT Standards, Council of Europe and many more.

## Chapter IV: The Main Models of Reaction on Juvenile Delinquency

In modern societies, the goal of sanctions, which can be proclaimed to a juvenile, is changed compared to the past. It is clear that nowadays, “the entire criminal justice system is based on the principles of individualisation and reintegration, and the enforcement of sanctions to mere retribution, return evil for evil, is nowhere proclaimed as the goal itself that has a distinctive value” (Kovačević. 2016:34).

Depending on the public attitude and the decision makers there are different approaches to the prevention and repression of juvenile delinquency. Two main methods coexist with several methods that can be found in their boundaries and represent subgroup of these two. It is a common belief that two basic models are welfare and justice which represent opposite approaches. Next, the two methods that are important and stand out from other are restorative justice model and neo-corrective model. Some academics argue that there are more methods, so Škulić considers more approaches (2015:46-49):

1. Modified justice system – has elements typical for welfare method;
2. Participative model – characterised by principle of minimal interventions and the main figures are subjects dealing with education and communication;
3. Control of delinquency model – “model for protection of juvenile delinquency” with strict reaction on juvenile crimes;
4. Corporative model – important role of the different governmental bodies and social services dealing with juveniles with the main goal to socialise minors;
5. Minimal intervention model – main goal is to avoid stigmatisation of juveniles with replacement of criminal procedures with diversion actions and to avoid formal punishments.

The common thing for all theoretical approaches is that “punishment cannot just be the only measure of reaction to the committed crime, but also in many cases it cannot achieve adequate results in achievement of foremost, protective function of the criminal law” (Radulović, 2010:34).

It can be concluded that nowadays the models are not isolated one from each other. Mixture of the models is common in the most of juvenile justice laws, and it, depends on the political, economic, cultural practices, tradition in a country and a state of the crime (Radulović. 2010:55). In other words, if there is a common attitude towards juvenile criminal as “juvenile crisis of

children in conflict with law”, one model of control would be used. On other hand, if there is dominant belief that these are the “acts from young criminals”, different model would be used (Ignjatović, 2015:28).

So, the states are not strictly following one of the proclaimed models in order to find strategies for tackling juvenile crime successfully “which indicates that the increase of more dangerous forms of criminal acts is concerning due to the age of minors conducting criminal acts” (Radulović, 2009:8).

## 1. Welfare model

This model is called “protective model” or “paternalistic model” due to the fact that a legislators and judges are focused on the juvenile personality and the main goal is to achieve re-education and rehabilitation of the juvenile. So, while choosing a sanction for the juvenile, the court is taking into account all facts that can make a positive impact on juvenile in order to change. In this model, the focus is on the best interest of the child. According to Ignjatović the main principles are (2011:191):

1. While deciding, the type of the criminal act or the effects on the victim are not taking into consideration;
2. The period of a sanction cannot be fixed, because it cannot be determined for how long the process of re-education and rehabilitation is going to last;
3. There is more possibility for them to be successful if they are held in the institutions where the juveniles are separated from their current environment;
4. The sanctions proclaims the court specialised for a juveniles and
5. It is not good to provide this category with a significant amount of constitutional rights and guarantees because it can threaten the program of re-education and rehabilitation.

Juvenile and his re-socialisation is in the centre of this approach while victim is in background. Important characteristic is that “the criminal sanctions are with indefinite duration, their exact duration depends on achieved results in education with a possibility to replace and end proclaimed corrective measure and that significantly increases the active role of the court” (Bogojević. 2012:20).

The focus is also on the juvenile personality and the fact that they are not mature so it is easy to make an impact on them. So, environment (education, family, social, economic situation) is a big factor in the process of committing a crime and it cannot be neglected. The welfare model “incorporated the positivistic assumption that juvenile wrongdoing is the product of social or environmental factors over which the young person has little or no control, and maintains that young offenders should, accordingly, be helped rather than punished” (Cavadino, Dignan & Mair, 2013:259). It can be concluded that it is vital to apply measures in order to re-socialize juvenile according to the needs, not to make a punishment proportional to the seriousness of the offence.

There are numerous critics of this system. One of the Radulović's critiques is that “criminal law has a purpose to control, not to take care of juvenile offenders” (2010:56). Moreover, ignoring a victim and a committed crime are also disapproved because society has interest in effective state's response to the crime (Kovačević, 2016:40). Kovačević also criticizes this approach because of legal certainty and possibility to “lead to major differences in treatment of similar cases, and to non-compliance of the procedural rights of the defendant” (2016:41).

Despite all critics it is clear that this method has a human treatment on juvenile offenders, taking in to account all elements, and placing juvenile's interest in focus. This model dominates in numerous criminal systems in the world, not in its original form, but modified with elements of the common justice model (Škulić, 2015:42). So, elements of welfare model are integrated in every system of juvenile delinquency.

## 2. Justice model

This model puts the committed crime and responsibility of juvenile in the centre and, unlike the previous model, puts personal characteristics of the juvenile and his needs in a second place. The final goal is to re-integrate successfully juvenile into society, without use of rehabilitation (Ignjatović, 2011: 191. Moreover, it seeks to achieve criminal procedure similar to a classical one, for adults, with special rules for juvenile (Škulić, 2015:44). The right of juveniles needs to be the same as the one for adult offenders, except the principle that protects the information about juvenile in front of the court.

It is important for juvenile to be responsible for his/her acts, and while choosing a sanction it must be proportional to the committed crime. Furthermore, duration of the sanction has to be determined at the moment of pronouncement and proportional to the level that juvenile deserves to be punished. The only omission for announcement of softer punishment is allowed when the reintegration is demanded and it is justified by personal characteristics of the offenders (Ignjatović, 2011:191). In order to adjust sanctions, this method has proclaimed numerous sanctions such as community work, a fine, a suspended sentence, limitation of movement with electronic monitoring and so on (Radulović, 2010:6).

Prison sentence needs to be the last resort just for serious crimes. In order to reach a restorative justice for easier crimes other measure should be used.

In most of the countries, this model is combined with welfare model and restorative justice model. It started to be popular during the '80, the period of expansion of the juvenile delinquency with elements of severe acts, usage of drugs, organised crime.

### 3. Restorative Justice Model

Restorative justice is another way of reaction on the criminal behaviour and Ignjatović proclaims that “restorative justice is based on the need to heal the damage caused to social relationships as a result of the crime. (2011:190) Also, restorative justice can be seen as response to a crime that is focused on repatriation of damage caused by criminal act to the greatest possible extent” (Nikolić-Ristanović & Čopić, 2007). Moreover, “it may be seen as criminal justice embedded in its social context, with the accent on relationship with other components, rather than as a closed system in isolation” (F. Marshall, 1999:5).

This model is focused on the relation offender-victim, not the offender-state. In other words, dealing and solving a problem between juvenile offender and a victim through procedure outside the court is in the centre. The problems can be solved with reparation with a purpose to satisfy the victim, but also making an impact on juvenile to become responsible for the act. The prerequisite for this approach is full acceptance of all sides to participate in the process (offender, victim and social community).

Aim of restorative justice is to “make an offender social re-integrated” and reconciliation of two sides (Škulić, 2015:49). It can be achieved with mediation, through panel discussion with juvenile offender, restorative meetings - family group conferencing, community conferencing (Radulović, 2010:61-62).

#### 4. Neo-correctional model

“Zero tolerance” policy is the way of reacting when it comes to juvenile delinquency with an accent on law and order. This method is similar to the justice model due to the fact that minor is also considered to have the same responsibility for the committed crime as adults. That follows certain obligations that need to be fulfilled by juvenile. The main difference and the main goal of this model is to react fast on the juvenile delinquency and quite often, the prison punishment is proclaimed in order to protect society from delinquents (Škulić, 2015:50).

The base of this model is quick and successful response to the delinquency and, apart from minor responsibility, there is also responsibility of juvenile parents due to the mistakes they made in education, and there is a responsibility towards both victim and community (Radulović, 2010:63).

In order to effectively respond to a crime, the decision was made to keep under a control poor neighbourhoods and citizens with social problems, because they are the threat to state security. However, it is important to emphasize that ideas of neo-correctional method are not part of international documents, but regardless, the model exists (Kovačević. 2016:68).

It is clear that “neo-correctional model very remarkably demonstrates that the mere control of minors and strict discipline, without going into the causes of criminal behaviour, does not lead to results” (Kovačević. 2016:68).



## 5. Methods in Serbia and Slovenia

Most systems in Europe, including Serbian and Slovenian, are not based just on the welfare of the child anymore. This method is mainly used together with elements of other models in order to achieve international juvenile justice standards.

Since 1990s, progressive improvements of law and practices started in Serbia and Slovenia. With adoption of the Convention on the Rights of the Child, both countries adopted the principle of the "best interest of the child" and implemented it into domestic juvenile judicial systems. Furthermore, the principle of imprisonment as a last resort is followed in both countries (Dunkel, 2014:5).

When it comes to Serbia, the first repressive model was replaced with welfare model in 1959 with a Law on Changes and Amendments to the Penal Code. Furthermore, during the end of the 20<sup>th</sup> century, this model was used in combination with a justice model and juvenile was not the main focus, but the victim of the criminal act and the interests of the society. So, restorative justice became important (Bogojević, 2012:20). Nowadays, principles of education, participation and minimum intervention are important parts of Serbian model. (Dunkel, 2014).

In 2006 the restorative justice is implemented into Serbian legislations with the new Law on Juvenile Criminal Offenders and Criminal Protection of Juvenile and it reflects the implementation of measures that represent an alternative to criminal sanctions and fully replaces criminal penalties and criminal proceedings (Savić, 2007).

In 1995, Slovenia had meaningful reforms of the Penal Code and community service and reparation had been implemented for the first time. Moreover, mediation and diversion were introduced with these reforms. (Dunkel, 2014:59).

In 1997, apart from the Czech Republic, in Slovenia mediation pilot projects were implemented and since then, Slovenia introduced factors of restorative justice into the method of response to juvenile delinquency (Dunkel, 2014:38). Moreover, often usage of deprivation of the juvenile's liberty is on low level, which shows soft policy.

## Chapter V: Juvenile Justice Systems

Juvenile justice systems vary from country to country as a result of different ages of criminal responsibility and categories of juveniles, intervening bodies, organisations, the ways of reaction and so on. “One of the common elements of the juvenile justice systems is that they all derive their origins from the criminal law or social control system, or in other words, the formal legal system exists in all cultures to enforce respect for social norms and rules” (Cappelaere, 2015:48). Another definition can be found in the Recommendation Rec (2003) 20<sup>1</sup> where it is referred to juvenile justice system as “the formal component of a wider approach for tackling youth crime” (Rec. I). In addition to that, it is said that the cooperation between youth courts, the police, the prosecution service, the legal profession, the probation service, penal institution, a health, education, social and welfare agencies and non-governmental bodies is necessary (Rec. I).

Juvenile offenders belong to the specific part of the criminal law in most of the countries in the world because of their specific characteristics, such as the age, physical, psychological, social features of their personalities. Procedure against juvenile offenders is different from the procedure against adults when it comes to the body that leads procedure, the aim of the procedure, the form and structure of it. The states decided to organise juvenile systems in the most appropriate way to represent the model that satisfies “juvenile delinquency, the judicial system, legal and criminological perceptions of juvenile delinquency, economic opportunities, legal tradition and legal culture and so on” (Đurđić, 2015:93).

Due to the fact that juveniles are in the process of maturing, their treatment needs to be different. It is harder to make an impact on adults who have formed personality. On the other hand, with various programmes it is easier to direct and change behaviour of juvenile since they are in the phase of growing. It is possible for them to accept a positive value system (Radulović, 2010:44). The phenomenon of juvenile crime cannot be neglected because the early criminal behaviour can lead to the criminal career and continuation of conducting criminal offenses in adult life (Ignjatović, 2011:191). Taking into consideration previously mentioned, they need to belong to the separate category of the criminal law.

---

<sup>1</sup> Recommendation of the Committee of Ministers to member States concerning new ways of dealing with juvenile delinquency and the role of juvenile justice, 24 September 2003, Council of Europe

Furthermore, P. Mulvey & R. Iselin argues that juvenile system needs to be separated from adult system for two reasons. A first reason is possible negative influence of adults on minors; it is of a great importance to keep minors and adults separated while serving sentence. Second one is to make an impact on juvenile and re-socialise them through positive intervention with no further criminal acts (2008:36).

Juvenile criminal law is dynamical system which is changing accordingly with the demands of effective crime prevention. Contemporary law needs to include the respect of human rights which is one of main demands for democratic state (Radulović, 2012: 83). Moreover, it is crucial to be in accordance with the international law and standards.

There are two ways of regulating the position of minors in criminal law. First, it can be a part of one common criminal legislation but separate from the adults. Second, it can be in a specific separate criminal law. Due to all specific characteristics mentioned before, it needs to be like this in order to separate laws that regulate juvenile offenders and adult criminals. Legislators decide about the responsibility age limits of minors: upper and lower boundary in which minors can be criminal responsible. Above the upper boundary, the adult period starts and another criminal law is applicable. On the other hand, below the lower line minors belong to category of children and they cannot be responsible for offense. Countries decide about the age limit differently so it diverse from country to country. The most common way is that with the age of fourteen starts criminal responsibility and until the age of eighteen the offender is juvenile.

It is in states' interest to prevent and suppress criminal in general and juvenile delinquency as a part of it. They do it by development of an effective programme for suppression of crime. When it comes to deciding to use criminal sanctions and to choose which one, the committed crime needs to be careful analysed as well as minor's personality and all other factors. However, it is clear that there are some juveniles with evolved criminal characteristics and then prison punishment needs to be proclaimed as the last option.

Nowadays, juvenile delinquency is faced with the new methods and violence. "Minors, while committing criminal acts, use the means (cold arm and firearm) to cause serious harm to the victims of the criminal act. Apart of that, there is a trend of minors association during the preparation and execution of criminal offences" (Banović & Joksić, 2012:23). All above said brings the conclusion that there should be new ways and methods of responding and intervention.

## 1. Juvenile crime in Serbia

The scope of juvenile criminality represents a considerable number in the total criminality between 3-7%, and a number is in a slight increase in last ten years (Ilić & Maljković, 2015:107).

Approximately, 79% of offences belong to the category of property criminal acts (Ilić & Maljković, 2015:108). An upsetting fact is that changes occur in the structure of criminal acts committed by juveniles. This happens from the ages fourteen to eighteen, with the transformation being from property offences, to violent delicts and an increase of delicts connected with narcotics (Ignjatović, 2015:34). The statistics show that 55% of juvenile offenders committed the crime which included elements of violence such as murder, aggravated murder, domestic violence, robbery and so on (Stefanović, Ilijić & Igrački, 2015:366-367). However, property related criminal acts with elements of violence are the most common, averaging at around 74% (Ilić & Maljković, 2015:108).

Moreover, according to Ilić & Maljković there are a few more characteristics of juvenile crime in Serbia (2015:108):

1. The recidivism of juveniles is around 8%;
2. There is a notice that in the 55% of the cases, juveniles commit the crime as part of a group;
3. There are more male juvenile offenders than females, with 96% and 63%, respectively;
4. Even though juvenile offenders have problems with a lower level of education, that is not the main characteristic of juvenile offenders.

### 1.1. Juvenile criminal law in the Republic of Serbia

In Republic of Serbia, juvenile criminal law together with the Penal Code is an aspect of the main criminal legislation. Reforms occurred in 2006 when independent, separated legislation was adopted. According to Dunkel, the reforms were “strongly oriented at international standards with regards to the principles of education, minimum intervention and of proportionality” (2014:59). Moreover, the elements of restorative justice and diversion were emphasised (Dunkel, 2014:59).

In Serbia, the topic of juvenile delinquency is regulated by separate law. The law is named The Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (shorter: The Law on Juvenile Offenders) and it came into force on 1 January 2006. The law is a set of regulations which determine the legal status of both minors as perpetrators of criminal offences, and victims of criminal offences (Bogojević, 2012:19). This law is applicable to minors that committed one of the crimes listed in Special part of the Penal Code of the Republic of Serbia. So, in Serbian law, there is no different list of criminal acts that minors can commit in contrast to adults. However, the norms for punishment specified in the Special part are not applicable to minors, that part is regulated with the Law on Juvenile Offenders.

Juvenile is defined as “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” (Art. 3, para. 1, the Law on Juvenile Offenders). There are two categories of the juveniles. The first one is a *younger juvenile* who is “person who at the time of commission of the criminal offence has attained fourteen and is under sixteen years of age” (Art. 3, para. 2, the Law on Juvenile Offenders). Another category is an *elder juvenile* defined as “a person who at the time of commission of the criminal offence has attained sixteen and is under eighteen years of age” (Art. 3, para. 2, the Law on Juvenile Offenders).

Norms of The Law on Juvenile Offenders are applicable to minor offenders and adults who were minors at the time of commission. Moreover, it can be applicable to younger adults if they committed the crime while they were at the age of eighteen during the trial they are not twenty-one years old, and meets other requirements of Article 41. There can be a category for this law if it can be expected that with proclaimed corrective measures, the same aim can be achieved as if the punishment was proclaimed. The character of the offender and the circumstances under which the crime was committed need to be taken into account. Towards this, the court can pronounce any alternative sanctions, the measure of increased supervision by guardianship authority, or the remand to a correctional institution (Art 41, para. 1, the Law on Juvenile Offenders). If a minor commits the crime while he or she is younger than fourteen, the criminal sanctions cannot be applicable. Persons under fourteen are considered a child, and “in relation to them, irrebuttable assumption is present that he/she could not be subjected to criminal offense” (Radulović. 2010:13).

With this law, it was set up that the application of diversion orders and criminal sanctions can be pronounced towards a juvenile by a juvenile judge.

### *1.1.1. Diversion orders*

Prerequisites for usage of diversion orders include the confession of a criminal offence, and the attitude of the juvenile about the act and injured party; the criminal act can be punishable by fine, or less than five years imprisonment. The aim is to make an impact on the juveniles to develop, prevent them from committing a crime in the future, and reinforce his or her responsibility for the committed act (Art. 5&6, the Law on Juvenile Offenders). The diversion order cannot last longer than six months (Art. 8, the Law on Juvenile Offenders). Types of diversion orders are listed in the article 7 as such: settlement with the injured party; attendance of school regularly or going on the job; participation in humanitarian organisations or community work; attending programs in order to heal certain addictions such as alcohol and drugs, and the last order is attendance to group or individual therapy.

Compared to criminal sanctions that can be proclaimed only by the court, diversion orders can be pronounced by the competent public prosecutor for juveniles or a juvenile judge (Art. 8, the Law on Juvenile Offenders).

Diversion orders are the measure of the restorative justice that aim to solve the conflict between perpetrator and a victim out of the court (diversional model), in order to re-socialise the juvenile (Škulić, 2015:46). Diversion orders work towards the achievement of the principle of minimal intervention which assumes that it is better to deal with the situation outside of the criminal procedure, when it is in the best interest of the child (Radulović, 2010:79).

However, this measure is not used enough, the courts gradually begin to order it to juvenile offenders (Ilić & Maljković, 2015:100).

### *1.1.2. Criminal sanctions*

In the Law on Juvenile Delinquency there are three categories of criminal sanctions towards juveniles (Art. 9, the Law on Juvenile Offenders):

1. Educational measures – for the category of younger juveniles (age of 14-16) only educational measures can be pronounced;

2. Security measures – proclaimed in the Penal Code in Article 79 with one exception of restraint to be engaged in work, business or duties;
3. Juvenile detention can be pronounced only for the category of elder juveniles (educational measures can be also proclaimed).

The main aim of criminal sanctions is re-integration into society, incentive by achievement, development by gaining professional and personal qualifications with proper education, and embracing responsibility (Art.10, the Law on Juvenile Offenders).

### *1.1.3. Educational measures*

Educational measures are listed in article 11 of the Law on Juvenile Offenders and they refer to:

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 the foster family, increased supervision by guardianship authority, increased supervision with daily attendance at a relevant rehabilitation and educational institution for juveniles;
3. Institutional measures: remand to a rehabilitation institution, remand to a correctional institution, committal to a special institution for treatment and acquiring of social skills.

A legislator, proclaimed the subjective criteria that needs to be consider while choosing educational measures. Emphasis is placed upon the age and maturity of a juvenile. Following these considerations, other aspects can be taken into account that can help make an evaluation of the character of the juvenile, such as understood degree of deviation in social behaviour, gravity of the offence itself, motives for committing the offence, living conditions of juvenile, attitude and behaviour after the commission, and so on (Art. 1& 2, the Law on Juvenile Offenders). Maturity is connected to the age so in every individual case it is necessary to assess if “a minor reached the degree of intellectual, social, physical, and emotional maturity corresponding to the average minor of particular age” (Radulović, 2010:44). After establishing the level of maturity, criminal sanction can be chosen, which need to be the appropriate one(s) in order to achieve the aim: integration into

society. This cannot be reached without proper programs for education, improvement of the personal characteristics of the juvenile, elimination of health issues, and so on.

For the purpose of this paper, the most severe educational measure is going to be mentioned – remand to the correctional institution. When there is a need to achieve correction of the child, to separate him or her from the recent environment, and/or to put the juvenile under supervision measures and specific educational programs, the court can order this correctional measure (Art. 21, the Law on Juvenile Offenders).

The same article 21 proclaims the period of time that it can last. The minimum allowed is six months and the most is four years, with evaluation at every six months, concerning the suspension of it. It is of severe importance to point out that the court does not decide about the period of time needed to be spent in this institution, but the length of rime is dependent on the success in education and correction of the juvenile in the correctional institution (Radulović, 2010:). The court can decide, after the assessment on every six months, about the probation of the juvenile (Art. 22, the Law on Juvenile Offenders).

Furthermore, the court takes into account the previous way of living, the degree of the behavioural disorder, nature and the level of the seriousness of the committed crime, and whether the court has already ordered the correctional measure for the juvenile in the past (Art. 21, the Law on Juvenile Offenders).

Girls, boys and adults need to be located in the separated sections of the institution (Art 124 para 2&3, the Law on Juvenile Offenders). The person cannot stay in this institution after the age of twenty-three unless there is a need for the completion of education, or professional qualifications (Art. 124, para 4, the Law on Juvenile Offenders).

Juveniles have certain rights in these facilities (Art. 128, the Law on Juvenile Offenders):

1. To be provided with clothing and footwear in accordance with the weather;
2. Healthy diet with at least three meals per day, with at least 14600 joules;
3. At least three hours on the fresh air per day;
4. To participate in the cultural, sports and other activities outside the institution;
5. To participate in sports;
6. To attend classes outside the faculty if there are no appropriate classes organised in the institution, and if that does not harm the execution of the measure;
7. To receive packages with allowed content;



8. To receive visits from the parents, guardians, spouse, the common-law partner, adoptee;
9. To spend certain periods of time, up to three hours, with the spouse or the common-law partner or in the specific premises;
10. To receive the visits from other people two times per months;
11. To work in accordance with the obligations of the school;
12. To receive a salary for work completed and to have the right to use freely half of it whilst the other half is put in a deposit account;
13. Daily and weekly leisure time;
14. To annual leave (18-30 days) outside or inside the institution and,
15. To health care inside, or outside the facility, if there is not adequate one inside.

#### *1.1.4. Juvenile prison sentence*

A juvenile prison sentence can be proclaimed only towards an elder juvenile for the violation of a law from a crime that is punishable by imprisonment of over five years. But, also when there is a high level of guilt, nature and gravity of the crime, so it is then not proper to order educational measures (Art. 28, the Law on juvenile Offenders). The imprisonment can last from six months to five years, with the exception of the severe crimes, punishable for up to twenty years and more, or can be considered the perpetration of two or more acts punishable by more than ten years (Art. 29, the Law on Juvenile Offenders).

Moreover, the person can be release on probation after the one third of the sentence has been serve, but not before the six months has been served, if the conditions are fulfilled such as good behaviour and not commission of new criminal acts (Art. 32, the Law on Juvenile Offenders).

Convicted persons serve the sentence together with other juvenile prisoners, unless it is necessary to separate them due to a health condition or for safety. The girls must be separated in the girls' premises but also the adults need to be located in different sections (Art. 137, para 2,3,5, the Law on Juvenile Offenders).

While serving the sentence, juveniles have certain rights regulated with article 138:

1. the right to education,
2. professional qualifications,

3. the right to work with the certain compensation for the work,
4. to have contact with the society outside the facility by letters, calls, receiving visitors, leave and so on,
5. participation in sport and cultural activities.

Leave can be allowed to juveniles, if improvements can be seen, in order to visit parents, children, guardians, siblings, spouse and so on (Art 142, para 1, the Law on Juvenile Offenders).

### *1.1.5. Basic provisions on enforcement of criminal sanctions*

The Law on Juvenile offenders proclaims some basic provisions needed to be respected while enforcing an educational measure, or juvenile prison. These provisions provide the rules for the best treatment of juvenile serving the sentence, that are in place to achieve successful re-socialisation and integration of juveniles.

The principle of non-discrimination is of great importance and the juveniles are equal in their treatment, no matter race, colour, sex, religion, political or other opinion, national, ethnic or social origin, property, birth or other status of the juvenile, and his parents, adoptive parent or guardian, as well as other forms of dissimilitude (Art. 88, the Law on Juvenile Offenders).

Next, juveniles need to be treated in the suitable way in relation to their age, maturity, and other characteristics. Juveniles also need to be treated with respect of his or her dignity and with work on their development and re-socialisation. Also, the conditions for primary and secondary education and professional qualifications must be fulfilled along with the freedom of religion (Art. 89, the Law on Juvenile Offenders).

The health care of juveniles is also regulated, and health and psychological examination need to be taken at least once per year (Art. 90, the Law on Juvenile Offenders). Disciplinary measure of solitary confinement cannot be proclaimed towards juveniles (Art. 91, the Law on Juvenile Offenders).

Moreover, the prohibition of carrying firearms in the facilities of juvenile prison or institutional educational measures is declared (Art. 92, the Law on Juvenile Offenders). This provision is criticised in that it not consistent to the Art. 65 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty which states the carrying and usage of firearms

is strictly forbidden in these institutions, and not just the carrying of firearms, like in Serbian legislation. But this is one of the rare examples of no-consistency with international standards (Ignjatović, 2010:194).

Enforcement of these sanctions is based on individual programs of treatment which need to be adapted to the specific personality of the juvenile. Moreover, all personal characteristics of the juvenile are considered while preparing these programs such as majority, education, age, the criminal offence, conditions of commission and so on. According to these facts, every detail of the juvenile's day is organised in the best way to help achieve re-socialisation (Art. 93, the Law on Juvenile Offenders).

Next, the cost of enforcement for criminal sanctions are provided by the state's budget, with an exception when certain people (parents, guardians) are in position that they can be requested to finance a part of the costs (Art. 94, para. 1-2, the Law on Juvenile Offenders).

Protection of the juvenile's rights are regulated, and it is said that "during enforcement of a criminal sanction, the juvenile judge determines these facts and circumstances, indicating the need to undertake measures for protection of the rights of the juvenile. He/she shall inform the competent guardianship authority where the juvenile has permanent or temporary residence" (Art. 96, the Law on Juvenile Offenders).

The right to file a complaint – when the juvenile considers that he or she is deprived of certain rights, or that some illegal occasions has occurred, means there is the right for the juvenile to file a complaint to the superintendent of the detention institution. The superintendent has a three-day dead-line to reach a decision. If it is determined that the breach occurred, it should be ensured that the breach is corrected (Art. 97, para 1-2, the Law on Juvenile Offenders).

Protection of the juvenile rights by the court - If the juvenile is not satisfied with the decision, he or she can complaint to the court with eight days death-line (Art. 97, para. 3, the Law on Juvenile Offenders).

### *1.1.6. Main observations*

After an analysing the provisions of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles we can reach the conclusion that juvenile legislation in Serbia is according

to the principles and standards of international documents regulating this area. This is due to the fact that the majority of the standards and principles are directly followed and transferred into this law.

There is a constant work on the reform of the juvenile criminal system, with the goal of harmonisation with European standards, but also with the instruments from the UN and the EU. The new Law on the Juvenile Criminal Offenders and Protection of Juveniles in the Criminal Procedures was drafted with the aim to improve the current law.

In 2011, with new reforms, a new model of criminal procedure was made and the question was raised concerning the adjustment of the procedure model against juveniles, with the model of criminal procedure which is in use when it comes to adults (Đurđić, 2015). Đurđić argues that there is no need for harmonisation of the two procedures because the two procedures do not need to be in front of the same body (2015).

## 1.2. Juvenile Correctional Facility in Valjevo

Juvenile Correctional Facility in Valjevo is a specialised institution for the detention of juvenile offenders. The level of security reflects this: “the institution is closed type with physical and material security” (Banović & Jokšić, 2012: 106). In this institution, as it is proclaimed in the law, juvenile sentence cannot last less than one year, or longer than ten years. It has two purposes which are the institutionalization both of juvenile and younger adult offenders. There are buildings for accommodation and a living room, kitchen with dining room, ambulance, canteen, cultural centre, school, apartments for a stay in a separate room with a spouse, rooms for visitors, place for religious observance, and warehouses (Postupanje sa licima lišenim slobode, 2011:6). There is special office for the treatment of convicted people, sector for reception, diagnosis and treatment, and department for education and professional training. Initially the facility was organised as a closed institution, nevertheless, one section it fulfils the role of district prison due to a fact that is physically separated from rest of the compound (Marković, 2011:99).

The total number of juveniles who were sentence to the prison punishment, on the 12 June 2017, was twenty. There was both minors, and adults who perpetrated the offence while they were minors, among them. The former group composed of five persons and the latter of fifteen prisoners.

The prison capacity is a protentional four hundred thirty-eight for offenders, penalised to the punishment of prison, but current total number of offenders was three hundred thirty-one.

*Table 1 The Number of offenders in the Institution, date 12 June 2017*

<b>Total number</b>	<b>Adults</b>	<b>Juveniles</b>	<b>Biological minors</b>	<b>Juveniles who are adult now</b>
331	311	20	5	15

The crimes that were most frequently committed, and led to the proclamation of prison punishment, were offences against life and limb such as murder, regulated with article 113 of the Criminal Code of Republic of Serbia and aggravated murder (Art. 114, Criminal Code) with fourteen offenders. The second most prevalent offence was against human health – unlawful production, keeping and circulation of narcotics (Art. 246, Criminal Code) violated six persons. The third was, rape (Art. 178, Criminal Code), which at the time of interview, was committed by two juveniles. Lastly, aggravated/compound larceny, robbery and human trafficking (Art. 388, Criminal Code), with one offenders respectively.

*Table 2 Types of the committed offences, date 12 June 2017*

<b>Criminal offence</b>	<b>Number</b>
Murder and aggravated murder	14
Unlawful production, keeping and circulation of narcotics	6
Rape	2
Aggravated/compound larceny	1
Robbery	1
Human trafficking	1

The number of persons sentenced to prison for a period of ten years was six. Furthermore, five adolescents were sentenced to five years in prison. For the period of seven, four and two years, there were two juveniles severing each sentence. Also, the sentence for the periods of three and one years both had one offender serving it.

*Table 3 Period of proclaimed prison punishment, date 12 June 2017*

<b>Years of punishment</b>	<b>Number of people</b>
10	6
7	2
5	5
4	2
3	1
2	1
1	1

Concerning accommodation of juveniles, they are located in open, semi-open and close section (Art. 25, the House Rules for Penitentiary Reformatory for Juveniles, in this sub-chapter referred to as the House Rules). While they are in the closed section, they are separated from adults, but not separated when spending time outside the room itself. On the other hand, in the open and semi-open department, the juveniles are together, mixed with adult prisoners.

### *1.2.1. Work and education*

When it comes to the education in the institution, there are differences between primary education which is obligatory and, high school/faculty which are not. Primary education is accessible to everyone who has not completed it, and they attend it as full-time students. According to the law the House Rules for Penitentiary Reformatory for Juveniles, (Art 75, the House Rules), the school for adults comes to the prison premises to conduct the classes, and minors are obligated to attend. When they graduate, the diploma is the same value as if they have finished it outside the prison. There are no signs that the juvenile finished it in prison, so in the future they cannot be discriminated against because of that fact. During the moment of the interview, four of the juvenile offenders was going to primary school, and 1 of them was about to take a final exam.

Concerning attendance of high school, due to the fact it is not obligatory in Serbia to attend it, it is formulated as part-time education and prisoners need to pay for it. If the appropriate conditions are achieved, such as personal motivation of the convict, if he/she has money to support

themselves, and if he/she is located in half-open department. The correctional institution has an agreement for cooperation with certain high schools in Valjevo, and prisoners journey there to take final exams, there is no possibility to go to classes on daily basis.

And finally, when it comes to higher education or 'faculty', they have the possibility to attend, organised in the same manner as high school. But, there were no offenders attending university during the visit.

In addition, there is opportunity for professional training which can be organised only if primary education is completed. The courses available are: learning to become a chef, waiter, woodworker, locksmith, welder, and painter. Apart from that, there are options for informal education, with the available course being informatics. The trainings are prepared in the institution with theoretical classes, but a third party comes to make an evaluation of students. There is cooperation with schools and, academies that carry out the training. Also, these certificates, like the previous, do not have characteristics that indicate it was completed in a prison.

The opinion of the Head of Service for Treatment, is that the system of education can be improved through cooperation with the Ministry of Justice and Ministry of Education to make an agreement concerning free education, and make it possible for teachers to come to the prison building and conduct lectures free of charge for prisoners.

Juveniles also have the right to work according to the law for juvenile workers, with the aim to begin or increase his/her working abilities, habits and expertise.

### 1.2.2. Programs with juveniles

Psychological, pedagogical, sociological, criminological, health-care and security estimations are completed in order to begin a personal treatment program. This is regulated with Article 15 of the House Rules. With determination of the program, juvenile is sorted out to educational group (Art. 23, the House Rules).

Free time is organised in the manner that includes sport (individual, collective), cultural, and entertainment programs. These exist in order to make an impact on juvenile, preservation and development of psycho-physical capabilities and potentially raise their cultural level (The House

Rules for Penitentiary Reformatory for Juveniles, 2006). Unstructured leisure time is a main barrier to successful re-socialisation and making a lasting impact on the juvenile prisoner.

When it comes to specified treatment programs there are both individual and group programs. The former is organised in the offices of the person who implement the treatment (tutors) with individual meetings with offenders. The latter are focused on the risk factors of the criminal act and they are called advisory therapeutic programs. There are six of these kind of programmes which include: responsibility; anger management; prevention of suicide and self-injury; family group therapy; one for addicts on psychoactive substances, and the one for preparation for post penal life. There are five or six people working with one minor. Every six months, recommendations for treatment are sent to the court and the Centre for social work. According to the Heads of Service for the Treatment is that there is not enough people working in the institution (only fifteen of them working on the treatment) in comparison to the number of detained people. Moreover, for every tutor there is approximately ten or fifteen juveniles, but they work with more adult prisoners. A working process with OSCE for standardization of these programs is ongoing. An important weakness is that it is proclaimed that for one tutor, there should be only a maximum ten juveniles, but in practice they work with more of them, sometimes five more than declared.

Additional facilities in the Correctional institution are a couple of fields for sport, walking and fresh air. Moreover, there is a room with the aim to represent Orthodox church due to a fact that a majority of prisoners are the Orthodox Christians. Also, there is a room for practices of other religions. House Rules for Juvenile Correctional Facilities regulate that “juveniles have the right to a religious ceremony, the right to keep and read religious literature and preacher” (Art. 86, the House Rules). The big cultural centre with a capacity of two hundred and fifty spots is located in the prison area for the usage of the prisoners through an attendance of diverse programs. Concerts of classical and popular music are held there, but also theatre plays and other manifestations. Depending on the interest of prisoners, there are workshops for learning how to play a chess, to paint, and a literary section.



### 1.2.3. Main remarks

Helping with finding a job after release is not in the competence of the institution, but institutions inform juveniles about possibilities after leaving the institution at approximately months before the end of the sentence. Also, there are workshops in order to educate inmates on how to write a CV. There is also an opportunity, after completing the workshop on writing a business plan, to get the funds for a new or improving family business.

There is not a system in place for the monitoring of juveniles after leaving the institution so there is no data about the recidivism. However, about 40-50% of juvenile convicted to the prison had corrective measures before prison punishment.

The conclusions reached by the workers in the institution in Valjevo is that crimes connected to drugs are rising, and that almost all offenders have graduated high school, so lack of education is not the main factor influencing them to commit a crime. Moreover, they believe that the House Rules for the Juvenile Correctional Facility needs to be improved. Also, there is a possibility for parole after the one third of the sentence is served, but the court and institution do not use that opportunity frequently, due to a fact that juveniles need to pass through all levels of treatments such as education, individual, and collective programs in order to be deemed to have changes and re-socialised successfully.

### 1.3. Juvenile Correctional Institution in Kruševac

Juvenile Correctional Institution for Juveniles in Kruševac is an institution specifically for juvenile offenders in Serbia and the execution of one of the most severe educational measures – measure remand to correctional home that has been proclaimed by a court and therefore the institution has significant role in crime prevention. One of the main mission of the institution is working with young people who have had problems with the law. Emphasis is placed upon their education and to work towards re-integration in society. The institution works using practical experience and scientific achievements (Vaspitno popravni dom u Kruševcu, 2005-2012) The measure can last from six months till four years and it can be proclaimed to juveniles between fourteen and sixteen. Moreover, if the court estimates that this measure is appropriate for an older person, for the purpose

of successful resocialisation this measure can be proclaimed also (Derinkonjić, 2014). The institution is organised on a several entities and utilises several forms of treatment: closed, semi-open and open. The close department is a separate architectural and organisational unit for accommodating juveniles deemed to exhibit improper behaviour (Vaspitno-popravni dom u Kruševcu, 2008).

The number of juveniles in the institution at the time of the interview was two hundred and one. The gender split was ten females and one hundred ninety and one male offenders (Table 1). It's inevitable to notice that the form the obvious gender disparity if would appear criminal behaviour is more common in male juveniles, as they represent 95% of population in the centre, in contrast to the 5% of female offenders.

*Table 4 Structure of sexes, date 15 June 2017*

<b>Male</b>	<b>Female</b>	<b>Total number</b>
191	10	201

But it is clear that regarding the type of the crime there is much variety. When it comes to crimes committed by male juveniles the most numerous are: Aggravated/Compound Larceny; Robbery; Violent Behaviour and Domestic Violence. These prevail with 51, 49, 21 and 13 offenders, respectively. On the other hand, the crime that is committed the most by females is Aggravated/Compound Larceny with 3 juveniles. A full breakdown of the committed crimes can be seen in Table 2.

*Table 5 Structure of committed crimes, date 15 June 2017*

<b>Article</b>	<b>Criminal act</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
113	Murder	12	0	12
114	Aggravated Murder	3	0	3
116	Infanticide	0	1	1
118	Negligent Homicide	1	0	1
121	Serious Bodily Harm	4	1	5
121	Light Bodily Injury	2	0	2

132	Unlawful Deprivation of Liberty	0	1	1
138	Endangerment of Safety	2	0	2
178	Rape	5	1	6
180	Sexual Intercourse with a Child	5	0	5
194	Domestic Violence	13	1	14
203	Theft	5	0	5
204	Aggravated/Compound Larceny	51	3	54
205	Grand Larceny	1	0	1
206	Robbery	49	0	49
212	Destruction of Damage of Another's Objects	1	0	1
213	Unauthorised Use of Another's Vehicle	6	0	6
246	Unlawful Production, Keeping and Circulation of Narcotics	5	1	6
278	Causing of General Danger	1	0	1
323	Attack on an Official in Performance of Duty	1	0	1
344	Violent Behaviour	21	0	21
348	Illegal Possession of Firearms and Explosives	2	0	2
350	Illegal Crossing of State Border and Human Trafficking	1	0	1
388	Human Trafficking	0	1	1

Article 3 of the House Rules in Educational-Correctional Centre states that, according to the needs of juveniles, certain next steps can be taken: the admission of minors, educational programs (general program of treatment and intensive program of treatment), a program of cooperation with the family, professional orientation programs and vocational training, a health program, or a cultural and sports program. All of these activities are designed to prepare the juvenile for a life in society after leaving institution.

### *1.3.1. Programs with juveniles*

A whole team of experts is included in the re-education process, which includes psychologists, sociologists, pedagogues and so on. With every admission of a minor, they analyse

the juvenile's personality, his attitude towards the committed crime, social community, family, if they use drugs and so on. The expected consider both a psychological and medical estimate, analyse reports from any previous work with the juvenile. Then, an individual plan and programme treatment is created. This individual plan is prepared within the first thirty days the juveniles is in the institution, and while they are accommodated in a preparative department.

After the preparation of an individual plan and programme, the juvenile move to an educational group where educators work with them. Educational groups should consist of a maximum ten juveniles, but current situation have led to these being between ten and twelve juveniles in one group, and it has in the past been up to fifteen juveniles in one group. There has been a scoring system in place (0-3 grades) since 2006. Everything is evaluated, and there are four levels that the juveniles need to pass before the end of the measure. There is no time limit for one level, so until the juvenile shows measurable success in behaviour or education, he or she cannot move on to another category. When the fourth level is complete, the conditions for an assessment to complete the course then become available. Article 91 of the House Rules in Educational-Correctional Centre regulates this and says that this can happen only when a tutor, in conjunction with the opinions of the team of experts, makes an evaluation and recommendation that it is in the best interest of the juvenile to complete and finish the measure. The final decision is made by the Prison governor, with advices and supports from the team of experts. Also, parole is possible after spending 6 months in the institution with the same procedure as above (Art. 92, the House Rules in Educational-Correctional Centre).

Apart from group work, there is individual work with juveniles, and during all working hours of tutors they are in the contact with juveniles. Moreover, it is easier for tutors to notice if something is wrong with minors or all their improvements. Next, there are numerous workshops according to the problems that juvenile have, such as drug problems, problems with communication, peer violence and tutor decide about it and it is obligatory for juvenile to attend.

### *1.3.2. Work and education*

The juvenile has a right and obligation to work in the institutions (Art. 33, the House Rules in Educational-Correctional Centre). Juveniles who have a work engagement in the institution also

receive a monthly salary for the work. The system functions so that half of the money goes straight to the “black deposit”, as the account is called, and the other half is given immediately to a juvenile, to spend it in institution according to their needs and wishes.

Education and vocational training is regulated by Article 51 of the House Rules in Educational-Correctional Centre. It declares that in the institution a school for adults must exist, and that every minor that has not graduated primary school is obligated to attend the appropriate class. Moreover, once the individual finishes primary school, they can continue with high school in the institution. If in the institution there is no appropriate class, the student can be allowed to attend a school as a part-time student in another school outside of the institution. Within the total aim of preparing the juveniles to be successful and well-adjusted after leaving the institution, there are various workshops, courses and lectures. Furthermore, an important fact is that after graduation, diplomas do not have any indicators of where education had been obtained (Art. 54).

In the past, primary school was organised as an organ of the Ministry of Justice with a status as an independent school. But now, it is an organ of Ministry of Education and a separated department of another school in the city of Kruševac. According to the Chief of the department for preparatory and practical teaching, this is a major shortcoming. Before, employees had the title of professor and there were eighteen in total. However, now there are only seven organisers of educational activities and three implements of practical and practical classes. Both of these specialities have also been losing the title of professors, making for the argument that the situation needs to return to the previous organisation. On the other hand, there is another issue with the organisation of the primary school; the program that is taught is for the education of adults, and as a result many of the juveniles are denied the specific knowledge that they would gain from participating in a normal program designed for children.

The high school is organised with the cooperation of two local schools, and participating juveniles are part-time students. The only condition is that the juvenile needs to be at least 17 years old, for before this they are not able to attend the school. I find this a clear shortcoming because minors lose their studying habits and understandings while waiting to become old enough to begin high school. Preparatory classes are organised in the institution, but professors of the high schools come directly to the premises of the institution as exam commission. Furthermore, there is the possibility to finish the high school level that each juvenile started attending before he/she came to the institution, and they are taken to their previous high school exams. But the school does need

to accept the offender. I consider this not a positive practice, because if the crime is not connected with the school it is not necessary to then expel the juvenile.

Primary and secondary education is free of charge but, faculty education must be paid for by the juveniles themselves.

### *1.3.3. Main remarks*

The weakest link in this system is that there is no service that provides assistance to the juveniles after their measure has ended. It is expected that Social services should provide them with some basic things such as support with insurance and new personal documents. However, that help is not sufficient. There is no possibility to help young people leaving this institution in this period where it is of the utmost importance to continue the organised and structured life that they learnt in the centre. That is not acceptable, because this is the area that most needs to be covered. It is a necessity to continue working with these people to ensure they do not commit a crime again and to effectively change lives.

The problem that has been highlighted leads us to consider the proposal for a new law regarding juvenile delinquents, because the suggestion exists to make a change concerning subjects deciding about the period of their measure. Current regulation is that, as it was mentioned before, employees in the institution make the decision to decide if the juvenile has completed his/her programmes sufficiently, and have been successfully re-socialised. However, the new proposition is that the court's decision in advance concerning the time of the measure is not positive if the juvenile is not making the expected progress. It is stressed that recommendations from the institution are not currently being taken into account and this is potentially being rectified in the proposals for the new law. The necessity for improved cooperation between the courts and Educational-correctional institutions is crucial for the improvement of both the treatment and conditions.

The Head of Service for the Treatment stresses the fact that the juveniles are discriminated against after leaving the centre, often because it is very difficult to hide from society the fact that a juvenile had been in the institution. That leads to difficulties with finishing school, finding a job, and other troubles for the juvenile. Non-discrimination is one of the core principles in all

international and domestic instruments. But, that quite often, leads to crime being committed again as minors find they cannot leave the vicious circle of crime they find themselves in, even if they made progress in the institution and have a will to change.

Even if the juvenile had showed improvement during their stay in the institution, and even if it is clear that after leaving the centre he or she does not have a positively functional family, adequate social conditions, or a healthy environment to go back to, there is no other option than release them after the end of the measure. “Every juvenile deserves another chance. But the number of these who take it is significantly small and the most of them return on the bad road” (Derinkonjić, 2014).

## 2. Juvenile crime in Slovenia

In Slovenia, juvenile criminal activities decreased gradually in the period between 2004 and 2014. Number of criminal acts declined from 1912 to 1044. (Filipčič & Plesničar, 2016:398).

The total number of sentenced juvenile is not high. Statistics show that the average number of juvenile offenders per year in juvenile prison in Celje in 2014, 2015 and 2016 was 3.4; 2.1 and 2.9 respectively. Moreover, the same data for Educational institution Radeče was 17.7; 17.9 and 19.3 respectively.

It is noticeable that during this period, the most common offence is the crime against the property. Nevertheless, criminal offences against life and limb; human rights and liberties; public health; public order and peace; sexual integrity and against marriage, family and youth were committed too.

From 2014 offences of the crime against property started to rise again. Also, drug related crimes have steady grow while the violent crimes have plunged (Filipčič & Plesničar, 2016:398).

“Approximately 4% of juveniles aged 14 to 18 (which are under court jurisdiction) are dealing with the police each year and less than 1% has been sentenced by the court or received an educational measure” (Filipčič, 2015:2).

## 2.1. Juvenile Criminal Law in the Republic of Slovenia

During the 1990s, in the Republic of Slovenia occurred meaningful reforms in both the law and practice due to changes happening at that time. The Criminal Code of the Republic of Slovenia was adopted in 1995 and followed the tradition from the Yugoslav juvenile justice system and juvenile delinquency remained under the Criminal Code (Filipčič, 2015:2). So, Slovenia still belongs to the counties with no specific law on juvenile delinquency. There is a separated section in the Criminal Code, named Educational Measures and Penalties for Juveniles, dealing with this. The Criminal Code and Criminal Procedure Act are the main normative documents in criminal juvenile justice.

Criminal Code that became valid in 1995, that regulated juvenile justice system, was replaced with the new one in 2008. The part that regulates juvenile offenders was left out in order to adopt separate law to regulate this area. However, the new legislation has not been adopted till now. As a result, the chapter VI from the Criminal Code from 1995 referring to juvenile justice system is still in the use (Filipčič & Plesničar, 2017:395).

The special penal provisions for juvenile perpetrators are applicable to both juvenile and adults who committed the crime while they were juveniles (Art. 70, para 1-2, the Criminal Code). “The age of criminal responsibility is set at fourteen and has remained unchanged since the mid-20<sup>th</sup> century” (Filipčič & Plesničar, 2017:396). The two categories of minors are existing. First, younger juvenile is defined as someone who “at the time of committing the criminal offence had reached the age of fourteen but had not yet reached the age of sixteen” (Art. 72, para. 1, the Criminal Code). This category can be sentenced only with educational measures. Next category is older minor as “a juvenile perpetrator who at the time of committing the criminal offence had reached the age of sixteen but had not yet reached the age of eighteen” (Art. 72, para. 2, the Criminal Code). Juvenile belonging to this category can be sentenced primarily with educational measures but also with fines and imprisonment (Art. 72, para. 4, the Criminal Code). Moreover, there is a category of young adults, defined in the newer Criminal Code adopted in 2008, as persons “who were already adults at the time of committing a criminal offence but under the age of twenty-one” (Art. 5, para. 3, the Criminal Code). This category is normally sentenced same as adults, but the court can decide to impose educational measures if evaluates that it would be more appropriate



concerning all circumstances connected to the criminal act and offender (Parosanu, Pruin, Grzywa-Holten, & Horsfield, 2014:149).

Children are not criminally responsible and everyone under the age of 14 belong to this category. When it comes to the criminal offence, the Centre for social work is the main actor in dealing with this child and his family (Filipčič & Plesničar, 2017:396).

The aim of educational measures and sentences towards juveniles is “to ensure their education, reform and proper personal development so as to provide custody, assistance, supervision, professional education and to support and help them develop a responsible personality” (Art. 73, the Criminal Code).

In Slovenia, there is no a special court for the juveniles. The juvenile offenders are dealt with by juvenile judges, followed by a panel for juvenile offenders at the District Court level (Mrhar Prelič, 2012-2013:3). Moreover, in Slovenia there is a trend of usage youth custody on the law level (Parosanu, Pruin, Grzywa-Holten, & Horsfield, 2014:13). According to Škulić, “Slovenia belongs to the countries with an absolute moderate sentencing practice” (2015:67).

Main principles of juvenile and adult offenders are different, juveniles have the same rights as adult offenders with supplementary rights that aim not to make a negative impact on juvenile’s development (Mrhar Prelič, 2012-2013:3).

The Criminal Code proclaims that two sanctions can be announced to juvenile offenders - educational measures and sentence (fine and detention).

### *2.1.1. Educational Measures*

The educational measures declared by the law are (Art. 74, para 1):

1. reprimands;
2. instructions and prohibitions;
3. supervision by social services;
4. committal to an educational institution;
5. committal to a juvenile detention centre;
6. Committal to an institution for physically or mentally handicapped youth.

The court orders first three measures when shorter period of time is needed to achieve improvements in juvenile's education, development and his or her current surrounding with the assistance of the professional guardian (Art. 73, para 2, the Criminal Code). The last three are proclaimed in situations when more time is needed and when there is a need for separation of juvenile from current environment. Moreover, these sentences should be used as the last option, if the resocialization cannot be achieved with other measures. (Art. 73, para 3, the Criminal Code).

Category of educational measures called instruments and prohibitions, with eleven different measures, belong to alternative sanctions. Moreover, reprimands and orders for supervision by a social welfare agency can fall in this category but in less extent than previous one. (Filipčič & Plesničar, 2016:114).

While deciding which educational measure should be used, the court should consider all: "the age of the juvenile perpetrator, degree of his mental development, his psychological characteristics, his inclinations, the motives why he committed the crime, his former education, environment and living conditions, the gravity and nature of the crime, whether he has a criminal record, as well as any other circumstances relevant to the selection of the most appropriate educational measure" (Art. 74, the Criminal Code).

For the purpose of this thesis, the committal to a juvenile detention centre should be mentioned in more details. Before ordering this measure, the court should consider the necessity of it, compared to the nature and gravity of the criminal act and taking into account if the juvenile has a criminal record (Art. 80, para. 1, 2, the Criminal Code). The period of time spent in the detention centre cannot be shorter than one year and no longer than three years (Art. 80, para. 3, the Criminal Code).

Probation is possible after one year spent in the institution if there is a sign of improvement in education and development of the juvenile and if it is certain that he or she would not commit a new crime while being on parole (Art. 82, para. 1, the Criminal Code).

Confidentiality of records is crucial with the exceptions, proclaimed in Article 86: "information from records on educational measures may only be released to courts, state prosecutors and agencies of internal affairs in connection with criminal proceedings against the juvenile perpetrator, and to the social services and institutions where the educational measures are carried out".

### *2.1.2. Juvenile Sentences*

There are two sentences that can be ordered to older juvenile and younger adults: a fine and a detention.

The prerequisites for the pronouncement of the fine is that the person is financially capable of paying and that for the committed act is prescribed the punishment of not more than five years imprisonment or paying the fine (Art 88, para 1, the Criminal Code).

Juvenile prison is the most severe sanction and it can be proclaimed only for the offences punishable with five-year sentence and only to juvenile who belongs to the category of older juvenile (G. Šugman, Matjaž, Peršak & Filipčič, 2004:53). Moreover, juvenile can be imprisoned when “owing to the nature and gravity of the crime and the high degree of criminal liability, the application of educational measures would not be reasonable” (Art 89, para 1, the Criminal Code). Duration of the sentence should be between six months and five years with exception for the offences with proclaimed imprisonment punishment of twenty years (Art 89, para 2, the Criminal Code). Minimum duration of the prison sentence is higher than for adults (15 days) and the purpose of this is to achieve the successful rehabilitation because there is a common belief that it cannot be done within a short period of time (Mrhar Prelič, 2012-2013:8-9).

While deciding about the juvenile prison, the court should take into account all circumstances, the degree of maturity, the time needed for education, changes and vocational training (Art. 90, para. 1, the Criminal Code). Furthermore, imprisonment must be declared when a person commits more than one offence, taking all proclaimed punishments for all committed crimes into account and deciding about the one (Art. 90, para. 2, the Criminal Code).

Article 92 refers to the fact that a person who committed the crime as a minor and at the time of the trial not reached the age of twenty-one and who committed the crime punishable with no more than five years imprisonment, may not be tried. On the other hand, if the crime is punishable with the imprisonment for more than five years, it is possible to be trialed but only educational measure can be imposed (Art. 92, para. 1,2, the Criminal Code).

Adults who committed the crime as young adults can also be trialed as the juveniles and then the court should take into account “all circumstances relevant to the case and in particular the gravity of the offence, the time passed since the offence was committed, the perpetrator's conduct

and the purpose of such a sanction” (Art. 93, para. 1, the Criminal Code). Moreover, adult can get the supervision by the social services, certain instructional measure, fine or juvenile detention (Art. 93, para. 1, the Criminal Code). If, by the end of the trial, an adult reaches the age of twenty-one, the court can proclaim the imprisonment sentence to replace the juvenile detention and this sentence needs to have the same effects as rehabilitation in the juvenile detention (Art. 93, para. 2, the Criminal Code).

On the other hand, if the offender has not reached the age of twenty-one by the end of the trial, the court can proclaim educational measure supervision of the social services or institutional measure when this is justified with all circumstances. Educational measures can apply only until the age of twenty-one (Art. 94, para. 1,3, the Criminal Code). Also, the revoking of the driving license or any other safety measures can be proclaimed, excluding the prohibition of his or her occupation (Art. 94, para. 2, the Criminal Code).

### *2.1.3. Alternative sanctions*

Although alternative sanctions do not have a long tradition in Slovenia, “some of them have become a regular and frequent feature of juvenile justice” (Filipčič & Plesničar, 2017:412). Moreover, there are implemented forms of the restorative justice, such as restitution of reparation of damages, re-integration of offenders through the delivery of community service and mediation (Mrhar Prelić, 2012-2013:12).

Mediation can apply only if both sides the juvenile and the injured party agree with it. Also, the juvenile does not need to confess guilt (Filipčič, 2015:6). Nevertheless, there is a small chance for prosecutor to choose mediation as a measure since the juvenile usually does not accept responsibility for the act and due to a fact that success is minimal in that case (Filipčič & Plesničar, 2017:414).

Next option is deferment of prosecution if juvenile achieves some things such as “repairing or compensating for any caused damage, paying a contribution to a public fund, a charity institution or the compensation fund for victims of criminal offences, or performing community service” (Filipčič & Plesničar, 2017:414).

There is a possibility for the state prosecutor not to bring the case in front of the court if he or she decides that it is not in the best interest of the juvenile to do so, but with the prerequisite

that is committed less severe criminal act, the one with the imprisonment sentence up to three years or a fine (Mrhar Prelić, 2012-2013:11).

#### *2.1.4. Main observations*

The juvenile justice system is mainly oriented on rehabilitation and education and it can be seen through the role of welfare agencies dealing with juvenile offenders and through sanctions that can be applied to juveniles (Filipčič & Plesničar, 2017:416).

Juvenile criminal law is a subject to constant changes with the aim of its improvement and successful response to a juvenile delinquency. It is clear that every state has interests to improve this area in order to prevent crimes in the proper way. It can be concluded that legislators in Slovenia must work on separate law regulating juvenile's criminal behaviour.

Even the Committee on the right of the Child recommends Slovenia to “establish special provisions in its Criminal Code for children” (Concluding observations on the combined third and fourth periodic reports of Slovenia, 2013:19). While doing this, measures need to be taken in order to make a juvenile justice system based on the international standards proclaimed in numerous international documents.

## 2.2. Juvenile prison in Celje

The juvenile prison in Celje is the only prison in Slovenia for older minors and young adults. Celje is a closed type prison and there are four different regimes for prisoners: restricted, semi-restricted, open regime and one for juveniles. Concerning the fact that it is not primarily for this category but also for adults, the prison Celje has a separate section for the detention of juveniles in order to separate them from adults. However, in practice younger adults, who show a good behaviour, are located together with juveniles due to a fact that there is not enough juveniles in institution. In other words, an exception can occur, if the court on proposal of the prison decides that the juvenile can be accommodated with the adults. An average age of prisoners in Celje prison is between eighteen and twenty-six years.

On the 31 May 2017, the total number of juveniles sentenced to imprisonment was 1 person. That person was adult at that time but he committed a crime as a juvenile. The committed crime was attempted murder.

An average number of prisoners was 29 in 2016. Furthermore, during the same year, an average number of juveniles in detention was 0.6 people per day. On the other hand, from 1 January 2017 till the 31 May 2017, there was an average of 1 prisoner and 0.4 juveniles in detention.

Rules on the implementation of prison sentences, adopted in 2016, (in this subchapter referred as the Rules) regulate both the execution of the imprisonment sentence for adults and juvenile (Art. 1, the Rules). So, there are no separated rules that regulate just juvenile imprisonment sentence. Rules on the implementation of prison sentences regulate, among other, procedure with convicts in the reception department; conditions in premises (concerning actual surface available per prisoner, and interior hygiene in rooms); diet (three healthy meals need to be provided taking into account the religious or other ideological beliefs or the health condition of the prisoner); clothing, footwear and personal hygiene; the health care, visits, correspondence; benefits of prisoners; transfer or cessation of the prison sentence; protection of the rights and the right on appeal; the rules of order and discipline; conditional release.

After reception, an expert group - psychologist, a pedagogue, a social worker, a teaching assistant and a doctor make a treatment plan for the prisoner (Art 18, para. 1, the Rules). The expert group makes the treatment plan while convict is in the reception department. Some of the things that needs to be done to make a personal plan are assessment of suicidal threats; collection of all necessary information about the prisoner; conducting the medical examination in order to determine the health condition and so on (Art 19, para. 1, the Rule). Furthermore, prisoner needs to be informed about the duties and the rights and prisoner needs to give consent to his personal plan (Art 19, para. 1, the Rules). The personal plan should refer to treatment, contacts with the family members and other persons, education, leisure time, work, benefits, medical treatment and the plan of the social inclusion (Art 19, para. 2, the Rules).

### *2.2.1. Education and work*

It is stressed out that the prison gives opportunity for the better education and that everyone has the opportunity to finish primary school and acquire qualification for various professions.

Primary school is organized in the institution and it's free of charge. High school is organised in the way that prisoners attend it as a half-part student and take exam outside the premises, at the school building. The prerequisite is that prisoner has a permission to leave the institution. After an assessment, if there is a common belief that the important part of the juvenile's treatment should be going to school on daily basis, it can be allowed. Otherwise, prisoners go to high school just to take exams or if the juvenile do not have permission to leave the institution in order to attend school, professors come to the premises to conduct the exams. In that case, only some programs are an option. Some programs of high school are free of charge and others not.

Convicted person who is studying or getting professional training in organizations outside the institute, if it is in accordance with the convicted personal schedule, the institute ensures attendance and other activities. (Art. 109, para. 1, the Rules).

Moreover, there is a possibility for the professional trainings that is internationally recognised. After finishing a course, students gain a license for some professions and this is organized in order to help them find a job after leaving the institution. Moreover, these programs are free of charge.

The Chapter VIII regulates work of the prisoners. The prisoners have the right to work (Art. 33, the Rules). The prisoner can be allowed to leave the prison to work outside the prison premises (Art. 34, the Rules). Every prisoner who works, has the certain number of days for annual vacation and moreover, if the prisoner show hard work, quality work, if they are disciplined and work full-time, they can gain additional six additional days (Art, 37, para 1, and Article 38, the Rules).

There is a possibility to work in the kitchen of the prison. There is a separated firm in the prison where the prisoners can work and make wooden furniture for all prisons in Slovenia.

## 2.2.2. Programs with juveniles

The General Office seeks to ensure that prisoners' treatment programs include professional-theoretical frameworks and methods and organisational forms of psychological, social, educational, sociological or other similar work (Art. 105, para.1, the Rules). Furthermore, program has to prepare a person for life after served sentence, so the personal and integration plan needs to be part of a treatment process (Art. 106, para.1, the Rules).

The program of treatment is the same for all prisoners, there is no separate one. The Governor explained that the reason for lack of specific programs for juveniles is the fact that there is considerable number of juveniles in the institution and that institution is not specialised for juveniles.

There are special programs for drug addiction, alcohol, violent people, and special programs for the offender who committed the crimes connected with sex violence. Moreover, these individual programs are adjusted to the personality and the age of juvenile.

A volunteer can be assigned to the prisoner if it is evaluated that prisoner's quality of life, while serving the sentence, needs to be improved; if person needs different social interaction in the process of re-integration into society; if the help in education is necessary; if the help is needed to cure addiction; if there is a need for gaining some social skills (Art. 107, para.1, the Rules). There should be cooperation between the institution and volunteers (Art. 107, para. 2, the Rules).

Institute for creation and implementation of the plan for social inclusion after the release, ensures direct contact between professionals from the relevant departments, guarantees employment, accommodation and help with public institutions such as healthcare and education (Art. 108, para. 1, the Rules).

The Institute is encouraging the convicted person to accomplish the plan for social inclusion and takes the necessary action to help with inclusion into society after serving the sentence (Art. 113, para. 1, the Rules). The convicted person can apply for financial support at the competent centre, in accordance with the rules of the social welfare one month before the release (Art. 113, para. 2, the Rules).



### *2.2.3. Main remarks*

It is stressed out that the institution pays significant attention to educational, psycho-social and special-therapeutic treatments, not just towards juveniles but also all young people in the prison in order to re-socialize and re-integrate them into society.

The Governor believes that the schooling is organised in proper way, however, it is emphasized that Ministry of Education should finance the education of the offenders, since the period of EU financing ends. A question is raised how the education will function? So the only thing needed to be change is providing more free programs for juveniles who don't have possibility to pay.

## 2.3. Correctional Home Radeče

Correctional Home Radeče is an institution for the execution of juveniles. Educational measure can last at least one, and up to a maximum of three years in this facility. This institution is for male and female offenders who reached the age of fourteen but are not yet twenty-three. and the capacity of the institution is 47 places for juveniles. (Ministarstvo za pravosodje, Uprava za izvrševanje kazenskih sankcij, 2017:9). When someone reaches the age of twenty-three they must be released from the institution despite the program often not completed. Moreover, the period of time that is spend here depends on success of re-socialisation and the personal effort towards improvement from the juvenile (Priručnik za mladoletne osebe ob nastopu ukrepa oddaje v prezgojni dom, 2017:1). The Rules on implementation of educational measure of committing a adolescent to a juvenile correction facility (hereinafter referred to as the Rules) regulates duration, and from the beginning till the end of the educational measure.

The implementation of a preventive measure in a correctional facility should be constructed on the way "to allow juvenile education, crafts and training for work, sports and creative and cultural activities" (Art. 2, para. 1, the Rules).

At the moment of the visit the Correctional Home, the total number of delinquents was 29. Among them there was 1 girl and the rest were male. All juveniles receive the same treatment, but two genders are kept separate.

Table 6 Sex structure on the date 1 June 2017

<b>Male</b>	<b>Female</b>	<b>Total</b>
28	1	29

### *2.3.1. Programs with juveniles*

The program is organised by an internal regulation called Educational Program of Correction Home Radeče that “is based on socio-therapeutic direction group and individual forms of treatment elements of therapeutic community and willingness to work with the external environment in the widest sense” (2009:1).

Juveniles needs to be provided with the appropriate premises in order to ensure they receive an appropriate educational program (Art. 17, para 1, the Rules); three meals per day with appropriate diet (Art. 18, para 1, the Rules); juveniles who do not have their own clothing, linens and footwear should be provided by the institution (Art. 19, para 1, the Rules). The facility needs to organise the useful spare time of juveniles, and juveniles should take a part in sports and other forms of reaction (Art. 20, para 1, the Rules). Moreover, health care needs to be organised in the institution (Art. 23, para 1, the Rules).

After the reception of the juvenile, he is accommodated in the reception department that is separated from the premises with other juveniles (Art. 11, para 1, the Rules). Whilst being there, a personal plan should be made. The personal plan represents the basic instructions for working with the juvenile with particular objectives in education, employment, professional training, leisure activities and other special treatments, including personal growth and other individual aims (Educational Program of Correction Home Radeče, 2009:3). The expert group, made of a teacher, a social worker, a psychologist, a doctor, a practice teacher, and a guard representative, participate in the group. A psychiatrist. works on personal plan (Art. 12, para. 1, the Rules).

### *2.3.2. The levels of the program*

Personal plan consists of the individual's objectives in particular areas of education, activities in order to achieve resocialisation, and actions in order to deal with specific juvenile's needs such as psychological, psychiatric, medical and other (Educational Program of Correction Home Radeče, 2009:3). Juveniles need to be familiar with their own personal plan and sign it (Art. 15, para 1&3, the Rules).

Moreover, the personal plan is implemented at several levels: the parent educational group, drug free department, and open section. The juvenile is placed after the period of time spent in the reception section into one of the parent educational groups. The work is focused on education in all areas with an accent on addiction, drugs and all negative effects of these. While the juvenile is at this level, leaving the institution in order to go home is allowed if he or she was rated with success. After two successful weeks, juveniles can apply for a transfer to the next department (Educational Program of Correction Home Radeče, 2009:9-10). The prerequisite for transfer to the next level is to successfully accomplish the program at this initial level.

The period of time needed to be spent on the next level, the drug free department is three months minimum. The juveniles cannot move to the last, highest level before this period of time has passed. There is an exception with the juveniles that do not have problems with addiction, they can move to the third level after two months. The aim of this level is to create a change within the juvenile. Successful juveniles gain some privileges such as leaving the home three times per month. These trips could include, participating in activities outside the institution, attending a prize trip, taking a theoretical driving licence test, leaving the institution and go to one of two towns close to Radeče, or other places close to the centre (Educational Program of Correction Home Radeče, 2009:10-11). Moreover, non-effective juveniles in this category, can be transferred back to the previous level.

The last level is an open section where the juvenile is preparing for their life after release from the institution. This is realised through various activities such as cooking, washing, ironing, cleaning the premises, going out alone to work, or to school, and so on. Here also, juveniles can be moved back to the previous, or to the first, level if severe violations occur. The main goal is to maintain lifestyle for the juvenile that incorporates positive changes. The time needed to spend here is three months (Educational Program of Correction Home Radeče, 2009:12).

The proposal for the transfer of a minor by educational groups to another group is given to the leader of the expert group of the institution weekly basis when it needs to be determined whether a particular juvenile is justified to be in a particular group (Art. 40, the Rules).

After reaching an accepted level which constitutes success, but not before one year spent in the institution, a proposal for release can be sent to the court. The court makes a decision on whether the resocialisation is achieved, or if the juvenile needs to stay in the correctional institution. So, the time spent in this facility is, dependent on the juvenile and his or her efforts to change. However, if there is no improvement after the deadline of three years, juvenile needs to be released according to the law. they must also be released upon reaching twenty-three years of age, even though he or she will not have finished the program.

### *2.3.3. Special group programs*

In order to achieve resocialisation, individual program and special group programs are conducted with juveniles (Art. 36, para 1, the Rules).

Moreover, special group programs are organised for the treatment of addicts, commonly with alcohol problems. Also, violent juveniles and, these with communication problems. Moreover, there are programs for juveniles in the period before dismissal, group of parents, positive self-assessment workshops, and youth-workshops (Educational Program of Correction Home Radeče, 2009:4).

Juveniles should have an annual vacation out of the Home if they are approved, depending on achievements in work or education (Art 45, para. 2, the Rules). If it can be seen that juveniles behave properly and achieve good results in work and education, and if the assessment is that they do not want to escape, there is a possibility to go on the group vacation out of the Home (Art 46, para. 2, the Rules).

There are also programs outside the institution, for example, spending a day on the mountain with the aim of improving the group dynamic and trust, to respect others, improve attitudes towards nature and so on. Others, remain at the institution and teachers work with them. The interests of the juveniles are taken into account and attempts are made to provide them with the activities they want to have. Moreover, there is a possibility for everyone to work in the garden.

#### *2.3.4. Education and work*

Article 21, para. 1 of the Rules proclaims that juveniles who do not go to school or study, should have opportunity to work either inside or outside the Home, according to their schedule.

Every juvenile has to be in one of the programs for education, depending on his or her previous education. Everyone needs to make an improvement within the educational sphere.

Education of the juveniles is organised in a way that means every juvenile that has not finished primary education needs to enrol, as set out in the personal plan (Art. 41, the Rules). Enrolment in high schools to gain some expertise is possible with the prerequisite that juveniles are qualified, and that it is incorporated in the personal plan (Art 42, para. 2 the Rules). Practical work is organised on the premises of the institution, but in some particular cases it can be organised for juveniles to attend classes outside the premises of the home if they are allowed to leave the institution (Art 42, para. 3&4, the Rules). When the juvenile is on the second level, he or she can attend high school, but there is only a small number of the juveniles taking this opportunity. During that time, juveniles go to school alone with permission from the institution. Juveniles with no ability to go home for the weekend cannot go to the high school outside the facility.

There are two teachers in the institution that prepare the juveniles for exams depending on different available programs. The majority of juveniles are taking part in the programmes that last at least two or less than two, or less in order to gain professional competence.

The education is free of charge on some occasions, when some schools have the agreement with the correctional institutions. But, in some cases juveniles pay the tuition for enrolment.

After successfully passing exams juveniles are provided with diploma in the gained abilities to carry out a particular job (Art 43, para. 2, the Rules). Also, the diplomas gained while being in this institution do not have defining characterises that include where the educational level was completed.

The opinion of the Head of Department for Educational Program is that schooling is organised in a proper way because it is the goal to provide the juveniles with the education that they want. If some programs are not available at the institution, it is worked on creating an agreement with schools to provide the juveniles with opportunities to pass exams as a part-time student.

If juveniles show efforts to achieve success in work or, education, if they have a good relations and attitude towards educational groups, community in the institution, school, cultural and sports activities, or show the improvement on individual programs, he or she can be awarded (Art 44, para. 1, the Rules).

### *2.3.5. The main remarks*

The common belief is that these programmes are successful, but the main problem is the lack of staff. In order to have successful work with juveniles, a fully functioning and working staff is needed. The next problem is that there is no good law regulating juvenile delinquency, and the new one should to be adopted.

The Head of Department for Educational Program foremost believes that there is an overall positive impact on the juveniles. However, the main problem is after juveniles are released from the correctional home. Even when he or she is prepared for the life after leaving this institution, they quite often return to the previous environment that can than lead to a repeated offence

The recommendation is to help the juvenile be able to not return in that previous environment. Here, the cooperation from the Correctional Home and the Centre for Social Work is crucial. The centre for Social work should prepare a new proper environment for juveniles in order to assist in avoiding their return to old habits. Furthermore, it was recommended to implement a provision in the new law that would regulate the possibility for juveniles to be send back to the institution if the court decide that re-socialisation and integration are not achieved. Currently, there is no possibility of ordering the same measure twice.

## **3. Main observations about the juvenile justice system in Serbia and Slovenia**

Main principles and values from the international documents are implemented in both Serbian and Slovenian legislation and practice: the best interest of the child; the principle of the minimum intervention; the re-education, education, re-socialization and social inclusion as a way

to reduce juvenile delinquency; involvement of non-judicial institutions and bodies in the process of election and execution of criminal sanctions and measures; protect the interests of the victim.

The European Commission commented the Serbian Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles as one of the best laws in Serbia (Maloletnički zatvor ili popravni dom uslov za suđenje, 2014). On the other hand, Slovenia needs to adopt new law regarding juvenile delinquencies. However, both countries, generally, deal in similar ways with this negative matter in practice.

## **Chapter VI: Concluding Remarks**

Juvenile delinquency exists as a severe problem in every country, and the same is true of Serbia and Slovenia. It must be stressed that the circumstances which lead to juvenile delinquency are “rapid population growth, the unavailability of housing and support services, poverty, unemployment and underemployment among youth, the decline in the authority of local communities, overcrowding in poor urban areas, the disintegration of the family, and ineffective educational systems” (Department of Economic and Social Affairs, United Nations, 2004:189).

Concern about juvenile delinquency is widely shared by state officials, by the public and by scholars. The question that arises now is: how is it best to react when criminal acts are committed by juveniles? Concurrently, the emphasis must remain towards preventing juveniles from becoming repeat offenders and finding the best ways to achieve that.

It is widely acknowledged that juvenile justice systems should be separated from the justice system for adults. Foremost, juvenile delinquents are entitled to the same rights as adult offenders, such as freedom from torture and cruel, inhuman, or degrading treatment; presumption of innocence; freedom from retroactive prosecution; freedom from unlawful or arbitrary deprivation of liberty: the right to an interpreter and many more (O’Connor, Rausch, Albrecht, & Klemencic, 2008:460). On the other hand, it is noticeable that the juvenile justice system also has some original and further characteristics.

International organisations find juvenile delinquency a significant phenomenon and stress the necessity for the prevention of delinquency among young people by providing assistance to those in danger of committing offence (Van Bueren, 1995:195). As a consequence, a considerable

number of international instruments have been adopted to point out main principles when it comes to juvenile delinquency and outline necessary for their specific treatment.

Moreover, the convicted person can be an object of continued negative effects, such as being separated from their family, termination of schooling, loss of their job, or facing difficulties to find future employment. Furthermore, there is a possibility he or she will still be seen as a criminal (Alternativne sanckcije - kazna rada u javnom interesu - analiza problema sa akcionim planom i preporukama za unapređenje, 2012:9). In other words, juvenile sanctions that include deprivation of liberty, in specific cases, can lead to the stigmatisation of young people after leaving these institutions, leading to a harder life for the juvenile. Therefore, the states need to work on the elimination of every kind of discrimination from this category.

Execution of sanctions, can result in adopting some negative patterns of behaviour. The large numbers of prisoner populations, often much larger than optimal can mean that, a "criminal infection" occurs, which increases the juvenile returning to criminality (Alternativne sanckcije - kazna rada u javnom interesu - analiza problema sa akcionim planom i preporukama za unapređenje, 2012:9). Moreover, ordering these sanctions can leave negative consequences regarding re-socialisation and re-integration into society. This shows the importance of the diversion measures whenever possible. But, it is crucial to evaluate every single case, due to a fact that the specific circumstances of each offence are different. Ergo, it is of great importance to send juveniles to one of these institutions in order to separate him from the current environment, or to finish education and so on.

Protection of the children in the conflict with the law has been under constant reform in the last ten years in Serbia. The process of democratic transition and moving closer to European integrations, instigated the fundamental changes in the social system for the youth and juvenile justice system (Ilić & Maljković, 2015: 105). Through adoption of the international concepts, standards and models, Serbia showed willingness to have a modern justice system for juveniles.

The Law on Juvenile Criminal Offenders and Criminal Protection of Juvenile adopted in 2005 implemented the main international standards and measures in order to disburden the judicial system, and drop the number of juveniles sentenced to imprisonment. The diversion of the procedure towards juveniles (diversion model of reaction) represents one of the main elements of the reaction on juvenile crime (Ćopić & Šaćiri, 2015: 276). However, the practice of acceptance, and use of alternative measures needs to be further promoted.



On the other hand, when it comes to Slovenia, the main observation to be found is that there is not a separate law regulating juvenile delinquency. An opinion of the Committee on the Right of the Child is that “with regard to juvenile justice specifically, there are no intolerable breaches of international documents that would raise concern with the Committee” (Filipčič & Plesničar, 2016:397). However, a significant shortcoming is the fact that Slovenia still has not adopted new legislation for regulating the legal status of juvenile delinquents or “the general lack of special provisions for children in the Criminal Code” (Filipčič & Plesničar, 2016:397). Despite this, Slovenia has a generally good system on juvenile delinquency that shows the small number of juveniles convicted either with imprisonment, educational measure sending to correctional institution. Furthermore, in Slovenia, extensive research has not yet been conducted, which would be devoted solely to the study of the recidivism of minors (Filipčič & Tlaker, 2010:17). So, there is no clear picture as of yet for comparison, concerning if juveniles return to crime.

Both Serbian and Slovenian juvenile justice systems are mainly justice oriented due to the fact that the punishment for the criminal act is decided within the criminal procedure. Thus, the criminal procedure is modified in comparison to the criminal procedure for adult offenders. All specific provisions required for juveniles in criminal procedures are implemented in order to protect the juvenile (Škulić, 2015:46). So, the juvenile justice system in both countries has elements of the judicial model and the welfare model. However, elements from the restorative justice and diversion model of reaction are also implemented. This leads to a conclusion that both countries, by mixing different methods, attempt to have the best possible responses to this phenomenon.

Even though Serbian and Slovenian laws are mainly in accordance to the international instruments, both systems can be improved in order to achieve re-socialisation and prevention of future crimes. It is clear that there are diverse conditions influencing children and juveniles to commit the criminal offences. It is a fact that “offending behaviour is thought to stem primarily from factors outside the juvenile’s control, such as family characteristics” (Richards, 2011:5).

Centres for Social Work have the obligation to keep a constant connection with the juvenile, his family and with the institution where the juvenile serves his or her sentence, in order to eventually prepare the juvenile and his family for his or her return into society. The Centre should then assist the juvenile with finding a job, finishing education, health care, and improving the conditions within the family (Ignjatović, 2010:206). Unfortunately, these obligations are often

not implemented in practice. Both Heads of service for the treatment in juvenile prison, and correctional institution in Serbia highlighted the weakness of the current system, because no support is provided to juveniles. On the other hand, a similar situation exists in Slovenia, where the interviewee stressed the necessity for the existence of institutions that would provide juveniles with support. Despite the fact that the need for this is proclaimed in national documents, there is no implementation of this in practice. This exemplifies a considerable weakness of practice in both countries. In other words, the positive effects of the hard work with the individuals are minimal and the work is not complete, if juveniles are not guaranteed institutional support after execution of the sentences and/or if they return back to the environment that influenced them to commit the crime. Due to the numerous circumstances that lead to delinquency, it is necessary to continue work with juveniles after they leave the institution and assist them in the ways written above, to ensure that the juveniles do not reoffend and instead are able to become successful members of society.

## Bibliography

- 35 koraka ka Evropskoj uniji*. (2014). Belgrade: Informacioni centar EU. Retrieved from [https://europa.rs/images/publikacije/34-35\\_koraka\\_ka\\_EU.pdf](https://europa.rs/images/publikacije/34-35_koraka_ka_EU.pdf)
- A. Mirić, F. (2014). *The Contemporary Conceptions of the Phenomenology and Etiology of Juvenile Delinquency* (Doctoral Dissertation). University of Niš, Faculty of Law, Niš.
- Adamkiewicz v. Poland, (no. 54729/00) (European Court for Human Rights February 3, 2010). Retrieved from [http://hudoc.echr.coe.int/eng?i=003-3047306-3370597#{%22itemid%22:\[%22003-3047306-3370597%22\]}](http://hudoc.echr.coe.int/eng?i=003-3047306-3370597#{%22itemid%22:[%22003-3047306-3370597%22]})
- Alfredsson, G., & Eide, A. (1999). *The Universal Declaration of Human Rights: a Common Standard of Achievement*. Netherlands: Martinus Nijhoff Publishers.
- Alternativne sanckcije - kazna rada u javnom interesu - analiza problema sa akcionim planom i preporukama za unapređenje*. (2012). Beograd: Udruženje sudija prekršajnih sudija Republike Srbije. Retrieved from <https://www.usudprek.org.rs/pub/download/Alternativne-sankcije-01.pdf>
- Banović, B., & Joksić, I. (2012). *Maloletnički zatvor u zakonodavstvu i praksi*. Belgrade: Univerzitet u Beogradu-Fakultet bezbednosti.
- Bates, E. (2010). *The Evaluation of the European Convention on Human Rights: From its Inception to the Creation of a Permanent Court of Human Rights*. Oxford Univeristy Press.
- Bogojević, R. (2012). Maloletnici kao učinioci krivičnih dela u Republici Srbiji. *Zbornik Radoca Pravnog Fakulteta u Nišu*, (Savremene tedencije u razvoju pravnog sistema Republike Srbije), 19–34.

- Burfeind, J., & Bartusch, D. J. (2015). *Juvenile Delinquency: An integrated approach* (Third). Routledge.
- Cappelaere, G. (2005). *Children Deprived of Liberty: Rights and Realities*. Liège: Jeunesse et droit 12. Retrieved from <https://www.unicef.org/tdad/geertchildrendeprivedliberty.pdf>
- Carrabine, E., Cox, P., Lee, M., Plummer, K., & South, Nigel. (2009). *Criminology: A sociological introduction* (Second). Routledge.
- Cavadino, M., Dignan, J., & Mair, G. (2013). *The Penal System: An Interdiction* (Fifth Edition). SAGE publications.
- Committee on the Rights of the Child. (1996, 2017). Retrieved from <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx>
- Concluding observations on the combined third and fourth periodic reports of Slovenia. (2013, July 8). Committee on the Rights of the Child, the United Nations.
- Convention on the Right of the Child. (2014, August 7). Retrieved June 20, 2017, from [https://www.unicef.org/crc/index\\_30177.html](https://www.unicef.org/crc/index_30177.html)
- Convention on the Rights of the Child, Pub. L. No. 44/25 (1989). Retrieved from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
- Ćopić, S., & Šaćiri, B. (2015). Stavovi Građana i stručnjaka o alternativnim vidovima reagovanja na kriminalitet maloletnika. In *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja* (pp. 275–292). Belgrade: Institut za kriminološka i sociološka istraživanja.
- Council of Europe. (2011). *Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice* (Explanatory Memorandum No. 5). Retrieved from <https://rm.coe.int/168045f5a9>
- Criminal Code (KZ-1), Pub. Official Gazette of the Republic of Slovenia, No. 55/08 (2008).

- Retrieved from <http://www.wipo.int/edocs/lexdocs/laws/en/si/si045en.pdf>
- Criminal Code of Republic of Serbia, Pub. Official Gazette of RS, 85/2005, 88/2005 Retrieved from <http://www.osce.org/serbia/18244?download=true>
- Criminal Code of the Republic of Slovenia, Pub. the Official Gazette of the Republic of Slovenia No. 63/94, 70/94 – correction, 23/99, 40/2004 and 95/2004 (1995).
- D. Levitt, S. (1998). Juvenile Crime and Punishment. *The Journal of Political Economy*, 106, 1156–1185.
- Department of Economic and Social Affairs, United Nations. (2004). *World Youth Report 2003: The Global Situation of Young People* (pp. 188–211). Retrieved from <http://www.un.org/esa/socdev/unyin/documents/worldyouthreport.pdf>
- Derinkonjić, M. (2014, January 9). “Sivi dom” nije više siv. *Politika*. Retrieved from <http://www.politika.rs/sr/clanak/303901/Hronika/Sivi-dom-vise-nije-siv>
- Dunkel, F. (2014). Juvenile Justice Systems in Europe – Reform developments between justice, welfare and ‘new punitiveness.’ *Kriminologijos Studija*, 31–76.
- Đurđić, V. (2015). Priroda, struktura i principi krivičnog postupka prema maloletnicima. In *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja* (pp. 91–104). Belgrade: Institut za kriminološka i sociološka istraživanja.
- Dushka v. Ukraine, (no. 29175/04) (European Court of Human Rights May 3, 2011). Retrieved from [http://hudoc.echr.coe.int/eng?i=001-103226#{%22itemid%22:\[%22001-103226%22\]}](http://hudoc.echr.coe.int/eng?i=001-103226#{%22itemid%22:[%22001-103226%22]})
- Educational Program of Correctional Home Radeče. (2009, December 1). Ministarstvo za pravosudje, Uprava za izvrševanje kazenskih sankcij.
- EU Info Centre. (2016). *Growing together 2: Most Successful EU Funded Projects in Serbia*.

- Belgrade. Retrieved from [http://euinfo.rs/files/Growing\\_Together\\_2.pdf](http://euinfo.rs/files/Growing_Together_2.pdf)
- European Convention on the Human Rights (1950). Retrieved from [https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/Convention\\_ENG.pdf](https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/Convention_ENG.pdf)
- F. Marshall, T. (1999). *Restorative Justice: An Overview*. London: Home Office Research Development and Statistic Directorate. Retrieved from [http://www.antonioacasella.eu/restorative/Marshall\\_1999-b.pdf](http://www.antonioacasella.eu/restorative/Marshall_1999-b.pdf)
- Filipčič, K. (2015). *National Report on Juvenile Criminal Law in Slovenia*. Ljubljana. Retrieved from [https://childhub.org/en/system/tdf/library/attachments/juvenile\\_justice\\_in\\_slovenia\\_en.pdf?file=1&type=node&id=21280](https://childhub.org/en/system/tdf/library/attachments/juvenile_justice_in_slovenia_en.pdf?file=1&type=node&id=21280)
- Filipčič, K., & Prelić, D. (2017). Juvenile Justice in Slovenia. In *International handbook of juvenile justice* (Second, pp. 395–419). Springer.
- Filipčič, K., & Tlaker, K. (2010). Analiza stanja in primerjalnopравни vidik. In *Obravnavanje mladoletnih prestopnikov v Sloveniji - analiza stanja in osnutek zakona* (pp. 3–32). Ljubljana. Retrieved from <http://e-uprava.gov.si/.download/edemokracija/datotekaVsebina/53741>
- G. Šugman, K., Matjaž, J., Peršak, N., & Filipčič, K. (2004). *Criminal Justice Systems in Europe and North America: Slovenia*. Helsinki, Finland: European Institute for Crime Prevention and Control. Retrieved from [http://www.heuni.fi/material/attachments/heuni/profiles/6KvFFxs6p/Slovenia\\_pdf.pdf](http://www.heuni.fi/material/attachments/heuni/profiles/6KvFFxs6p/Slovenia_pdf.pdf)
- Guidelines on Child Friendly Justice (2010). Retrieved from [http://opac.minori.it/VSRV01\\_EOS03\\_Linked\\_Documents/Giuridico2/2012%20Sec.Tri m.%28apr-](http://opac.minori.it/VSRV01_EOS03_Linked_Documents/Giuridico2/2012%20Sec.Tri m.%28apr-)

giu%29/Europeo%20ed%20internazionale/Guidelines%20on%20child%20friendly%20justice.pdf

Hjalmarsson, R., & Lochner, L. (2012). *The Impact of Education on Crime: International Evidence* (No. 2). CESifo DICE. Retrieved from [http://www.economics.handels.gu.se/digitalAssets/1439/1439011\\_49-55\\_research\\_lochner.pdf](http://www.economics.handels.gu.se/digitalAssets/1439/1439011_49-55_research_lochner.pdf)

House Rules for Penitentiary Reformatory for Juveniles, Pub. L. No. Official Gazette RS, 71/2006 (2006). Retrieved from <http://npm.rs/attachments/Pravilnik%20o%20kucnom%20redu%20KPZ%20za%20maloletnike.pdf>

House Rules in Educational-Correctional Centre, Pub. L. No. Official Gazette RS, 1/2006 (2006). Retrieved from <http://npm.rs/attachments/Pravilnik%20o%20kucnom%20redu%20u%20VPD.pdf>

Ignjatović, Đ. (2010). *Pravo izvršavanja krivičnih sankcija*. Belgrade: Pravni fakultet.

Ignjatović, Đ. (2011). *Kriminologija* (11 izmenjeno izdanje). Belgrade: Dosije studio.

Ignjatović, Đ. (2015). Kriminalitet maloletnia: stara tema i nove dileme. In *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja* (pp. 19–37). Beograd: Institut za kriminološka i sociološka istraživanja.

Ilić, Z., & Maljković, M. (2015). Izvršenje krivičnih sankcija prema maloletnicima. In *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja* (pp. 105–120). Belgrade: Institut za kriminološka i sociološka istraživanja.

Jovašević, D., & Stevanović, Z. (2009). Primena alternativnih mera za maloletnike u krivičnom pravu. *Zbornik Instituta za kriminološka i sociološka istraživanja, No. 1-2*, 37–64.

- Konstantinović-Vilić, S. (1981). Maloletnička delikvencija u krivičnom pravu. In *Zbornik radova Pravnog fakulteta u Nišu* (Vol. No. 21, pp. 285–302). Niš: Pravni fakultet Niš.
- Kostić, M. (2011). Ličnost maloletnog delikventa - Krminološka obeležja. *Časopis Za Društvene Nauke/Jurnal for Social Science*, XXXV No 2, 475–493.
- Kovačević, M. (2013). *International Standards in the Field of Criminal Sanctions and Measures for Juvenile Offenders* (Doctoral Dissertation). University of Belgrade, Faculty of Law, Belgrade.
- Kuzminović, I., & Palibrk, L. (2012). *Praćenje reforme zatvorskog sistema u Srbiji - Stanje ljudskih prava u zatvorima*. Belgrade: Helsinški odbor za ljudska prava u Srbiji.  
Retrieved from <http://www.helsinki.org.rs/serbian/doc/zatvori%20maloletnici.pdf>
- Lee, Y. (2009). Child Rights and Child Well-Being. Presented at the The 3rd OECD World Forum on “Statistics, Knowledge and Policy,” Busan, Korea. Retrieved from <http://www.oecd.org/site/progresskorea/44137252.pdf>
- Lugović, A., & Ilić, Z. (2011). Socio-kulturni kontekst kriminaliteta maloletnika u Srbiji. *Časopis Za Društvene Nauke/Jurnal for Social Science*, XXXV No. 2, 385–402.
- Maloletnički zatvor ili popravni dom uslov za suđenje. (2014, October 12). *Blic Online*.  
Retrieved from <http://www.blic.rs/vesti/hronika/maloletnicki-zatvor-ili-popravni-dom-uslov-za-sudenje/qdqxcn7>
- Marković, Ž. (2011). *Zabrana zlostavljanja i prava lica lišenih slobode u Srbiji* (No. II). Belgrade: Belgrade Centre for Human Rights. Retrieved from <http://bgcentar.org.rs/bgcentar/wp-content/uploads/2013/04/zabrana-zlostavljanja-i-prava-lica-lisenih-slobode-u-srbiji.pdf>
- Milošević, G., & Milašinović, S. (2011). Nasilje navijačkih grupa u Srbiji i kriminalitet



- maloletnika. *Časopis Za Društvene Nauke/Jurnal for Social Science*, XXXV No. 2, 495–510.
- Ministarstvo za pravosodje, Uprava za izvrševanje kazenskih sankcij. (2015). *Letno poročilo 2014*. Ljubljana.
- Ministarstvo za pravosodje, Uprava za izvrševanje kazenskih sankcij. (2016). *Letno poročilo 2015*. Ljubljana. Retrieved from [http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/UIKS/2015/160421\\_LP\\_URSIK\\_S\\_2015.pdf](http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/UIKS/2015/160421_LP_URSIK_S_2015.pdf)
- Ministarstvo za pravosodje, Uprava za izvrševanje kazenskih sankcij. (2017). *Letno poročilo 2016*. Ljubljana. Retrieved from [http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/UIKS/Letna\\_porocila/170503\\_Letno\\_porocilo\\_2016.pdf](http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/UIKS/Letna_porocila/170503_Letno_porocilo_2016.pdf)
- Ministry of Justice of Montenegro, Juvenile Justice Reform Commission, UNICEF. (2007). *The Right of Children in conflict with the Law*. Podgorica. Retrieved from [https://www.unicef.org/montenegro/Prava\\_Djece\\_ENG.pdf](https://www.unicef.org/montenegro/Prava_Djece_ENG.pdf)
- Mrhar Prelič, D. (2011). *Alternatives to Custody for young Offenders: National Report on Juvenile Justice Trends-Slovenia*. International Juvenile Justice Observatory. Retrieved from [http://www.oijj.org/sites/default/files/baaf\\_slovenia1.pdf](http://www.oijj.org/sites/default/files/baaf_slovenia1.pdf)
- Nart v. Turkey, (no. 20817/04) (European Court of Human Rights May 6, 2008). Retrieved from [http://hudoc.echr.coe.int/eng?i=001-86189#{%22itemid%22:\[%22001-86189%22\]}](http://hudoc.echr.coe.int/eng?i=001-86189#{%22itemid%22:[%22001-86189%22]})
- Nikolić-Ristanović, V., & Čopić, S. (2007). Restorativna pravda i prava žrtava. *TEMIDA*, 3–4.
- Nortier v. The Netherlands (no. 13924/88) (European Court of Human Rights August 24, 1993). Retrieved from [http://hudoc.echr.coe.int/rus#{%22itemid%22:\[%22001-57835%22\]}](http://hudoc.echr.coe.int/rus#{%22itemid%22:[%22001-57835%22]})

- O'Connor, V., Rausch, C., Albrecht, H.-J., & Klemencic, G. (2008). *Model Codes for Post-Conflict Criminal Justice* (Vol. II). Washington, D.C.: United States Institute of Peace Press. Retrieved from [https://bookstore.usip.org/sites/usip/resrcs/chapters/1601270151\\_otherchap.pdf](https://bookstore.usip.org/sites/usip/resrcs/chapters/1601270151_otherchap.pdf)
- Opinion of the Economic and Social Committee on The Prevention of Juvenile Delinquency. Ways of Dealing with juvenile Delinquency and the role of the Justice System in the European Union, 2006/C 110/13 §. Retrieved from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52006IE0414>
- P. Mulvey, E., & R. Iselin, A.-M. (2008). Improving Professional Judgments of Risk and Amenability in Juvenile Justice. *Juvenile Justice*, 18, 35–57.
- Parosanu, A., Pruin, I., Grzywa-Holten, J., & Horsfield, P. (2014). Alternatives to Custody for Young Offenders and the Influence of Foster Care in European Juvenile Justice. International Juvenile Justice Observatory. Retrieved from [http://www.oijj.org/sites/default/files/comparative\\_report\\_alternatives\\_to\\_custody\\_for\\_young\\_offenders.pdf](http://www.oijj.org/sites/default/files/comparative_report_alternatives_to_custody_for_young_offenders.pdf)
- Postupanje sa licima lišenim slobode. (2011, March). Belgrade Centre for Human Rights. Retrieved from <http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2013/12/%E2%80%9EPostupanje-sa-licima-li%C5%A1enim-slobode-br.-7%E2%80%9C.pdf>
- Priručnik za mladoletne osebe ob nastopu ukrepa oddaje v prezgojni dom. (2017, February). Ministrarstvo za pravosodje, uprava za izvrševanje kazenskih sankcij. Retrieved from [http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/UIKS/Vsebina\\_strani/2017\\_Prirucnik\\_za\\_mladoletnike.pdf](http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/UIKS/Vsebina_strani/2017_Prirucnik_za_mladoletnike.pdf)

- Radulović, L. (2009). Politika suzbijanja maloletničkog kriminaliteta: “What Works”? In *Zbornik Instituta za kriminološka i sociološka istraživanja* (1st–2nd ed., Vol. Vol. XXVIII, pp. 7–22). Belgrade: Institut za kriminološka i sociološka istraživanja.
- Radulović, L. (2010). *Maloletničko krivično pravo*. Belgrade: Pravni fakultet Univerziteta u Beogradu.
- Recommendation to Member States on Social Reaction to juvenile Delinquency Among Young People Coming From Migrant Families (1988). Retrieved from <https://rm.coe.int/168070ce24>
- Recommendation to Member States on the European Rules for Juvenile Offenders Subject to Sanctions of Measures, Pub. L. No. CM/Rec (2008) 11 (2008). Retrieved from [https://www.unicef.org/tdad/councilofeuropeljrec08\(1\).pdf](https://www.unicef.org/tdad/councilofeuropeljrec08(1).pdf)
- Recommendation to Member States Concerning New Ways of Dealing Juvenile Delinquency and the Role of Juvenile Justice, Pub. L. No. Recommendation Rec (2003) 20 (2003). Retrieved from <https://rm.coe.int/168070ce24>
- Recommendation to Member States on Social Reaction to Juvenile Delinquency, Pub. L. No. R (87) 20 (1987). Retrieved from [http://archivio.transnazionalita.isfol.it/file/CoE\\_Rec\\_R87-20%20Eng.pdf](http://archivio.transnazionalita.isfol.it/file/CoE_Rec_R87-20%20Eng.pdf)
- Recommendation to Member States on the Role of Early Psychosocial Intervention in the Prevention of Criminality, Pub. L. No. Rec (2000) 20. Retrieved from <https://rm.coe.int/168070ce24>
- Resolution on Juvenile Delinquency, the Role of Women, the Family and Society, Pub. L. No. 2007/2011(INI) (2007). Retrieved from [http://www.asser.nl/upload/eurowarrant-webroot/documents/cms\\_eaw\\_id1668\\_1\\_P6.TA.2007.0283.pdf](http://www.asser.nl/upload/eurowarrant-webroot/documents/cms_eaw_id1668_1_P6.TA.2007.0283.pdf)

Resolution on Juvenile Delinquency, the Role of Women, the Family and Society, Pub. L. No.

2007/2001(INI). Retrieved from

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0283+0+DOC+XML+V0//EN>

Richards, K. (2011). What makes juvenile offenders different from adult offenders? *Trends & Issues in Crime and Criminal Justice*. Retrieved from

[http://www.aic.gov.au/media\\_library/publications/tandi\\_pdf/tandi409.pdf](http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi409.pdf)

Rules on the implementation of prison sentences, Pub. L. No. the Official Gazette of the Republic of Slovenia No. 42/16 (2016). Retrieved from

<http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV12759>

Savić, S. (2007). Restorativna pravda i Zakon o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica iz perspektive sudske prakse. *TEMIDA*, 47–48.

Škulić, M. (2015). Reforma maloletničkog krivičnog prava u Srbiji. In *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja* (pp. 39–68). Belgrade: Institut za kriminološka i sociološka istraživanja.

Stevanović, Z., Ilijić, L., & Igrački, J. (2015). Izvršenje kazne maloletničkog zatvora. In *Maloletnici kao učinioci i žrtve krivičnih dela i prekršaja* (pp. 365–376). Belgrade: Institut za kriminološka i sociološka istraživanja.

The Council of Europe's Relations with the United Nations. (n.d.). Retrieved June 27, 2017, from <http://www.coe.int/en/web/der/united-nations>

The Law on Juvenile Criminal Offenders and Criminal Protection of Juvenile, Pub. Official Gazette of RS. No. 85/05 (2005). Retrieved from <http://www.refworld.org/pdfid/4b56c9952.pdf>

The Rights of the Child in the Administration of Justice. (2008). In *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* (pp. 397–443). New York and Geneva: United Nations. Retrieved from <http://www.ohchr.org/Documents/Publications/training9chapter10en.pdf>

The Rules on Implementation of Educational Measure of Committing a Juvenile to a Juvenile Correction Facility, Pub. L. No. the Official Gazette of the Republic of Slovenia No. 73/00, 127/06 in 74/09 (2000). Retrieved from <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV3139>

Tomšat, K. (2006). *Ljudska prava između idealizma i realizma*. Belgrade: Belgrade Centre for Human Rights.

United Nations Guidelines for the Prevention of Juvenile Delinquency, Pub. L. No. Resolution 45/112. Retrieved from <https://www.crin.org/en/docs/resources/publications/hrbap/IHCRC/UnitedNationsGuidelinesforthePreventionofJuvenileDelinquency.pdf>

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Pub. L. No. Resolution 45/113 (1990). Retrieved from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/JuvenilesDeprivedOfLiberty.aspx>

United Nations Standard Minimum Rules for Non-custodial Measures, Pub. L. No. Resolution 45/110 (1990). Retrieved from <http://www.ohchr.org/Documents/ProfessionalInterest/tokyorules.pdf>

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), Pub. L. No. Resolution 40/33 (1985). Retrieved from <http://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf>

- Universal Declaration of Human Rights, Pub. L. No. 217 A (1948). Retrieved from [http://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf)
- Van Bueren, G. (1995). *International Law on the Rights of the Child*. The Hague, The Netherlands: Kluwer Law International.
- Vaspitno popravni dom Kruševac. (2005, 2012). Retrieved June 15, 2017, from <http://www.vpdom.edu.rs/>
- Vaspitno-popravni dok u Kruševcu. (2008). Retrieved from <http://www.uiks.mpravde.gov.rs/lt/articles/ustanove-za-izvršenje-krivičnih-sankcija/vaspitno-popravni-dom-za-maloletnike/vaspitno-popravni-dom-u-kruševcu/>
- Vučković-Šahović, N. (2001). *Prava deteta i Konvencija o pravima deteta* (4th ed.). Belgrade: Jugoslovenski centar za prava deteta.
- Vučković-Šahović, N. (2011). *Prava deteta u Međunarodnim dokumentima*. Belgrade: Zaštitnik građana i Poverenik za zaštitu ravnopravnosti. Retrieved from [http://www.ombudsman.rs/attachments/2145\\_PDFPrava\\_deteta\\_u\\_medjunarodnim\\_dokumentimaF.pdf](http://www.ombudsman.rs/attachments/2145_PDFPrava_deteta_u_medjunarodnim_dokumentimaF.pdf)
- Z. Skakavac, T. (2014). *Recidivizam maloletnih učinilaca krivičnih dela* (Doctoral Dissertation). University of Niš, Faculty of Law, Niš.
- Žunić-Cicvarić, J., & Cicvarić, R. (2010). *Prava deteta u obrazovanju*. Užice: Užički centar za prava deteta. Retrieved from [http://www.uecpd.org/uploads/files/Prava\\_deteta\\_u\\_obrazovanju.pdf](http://www.uecpd.org/uploads/files/Prava_deteta_u_obrazovanju.pdf)

## Annex

### **Questions for the interviews:**

1. How many juveniles are in the institution?
2. What are the crimes committed for their detention?
3. What is the practice when it comes to the treatment?
4. How is education organised?
5. Is it organised on proper way? What are shortcomings or positive sides?
6. Can teachers see if they make an impact on juveniles?
7. Is there a need for improvement of the treatment and educational opportunities?
8. If yes, what are the ways for its improvement?
9. Are there implemented programmes aimed to accomplish resocialisation of the juveniles after the sentence is served?
10. If yes, what kind of programs?
11. Is there any way for improvement of these programmes?
12. Do you consider that the re-socialization of juveniles successful?

2017

# International instruments on juvenile delinquency, reactions to juvenile offences, and harmonisation with national legislations: the case studies of Serbia and Slovenia

by Todorovi , Milana

---

<https://doi.org/20.500.11825/595>

*Downloaded from Open Knowledge Repository, Global Campus' institutional repository*