Children in conflict with the law in Bulgaria

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Children in conflict with the law

NSI of Bulgaria

The report is a descriptive analysis of the existing data, collected by NSI and additional information, provided by Ministry of Justice as well as the official information on National strategy for prevention and combating to the antisocial behaviour and the crimes of juveniles and minors. The participation of the Institute for social activities and practices in the project work is assured by the support and cooperation with the national representative office of UNICEF in Bulgaria

A. National strategy for prevention and combating to the antisocial behaviour and the crimes of juveniles and minors
Adopted with Resolution 17 of the Council of ministers on 13 January 2003

Introduction
Considerable progress is done in the process of development of the system of prevention and combating the anti-social behaviour done by the juveniles and minors in Bulgaria in the recent years. In spite of that the reform is long and the influence of the social and the economic factors over the most vulnerable part of the population – children and their families, should be taken into account as it is in most of the countries in a period of transition.

The National strategy is a result of the following processes:

- Consultations in the field of the juvenile justice based on the analysis on “Children in conflict with the law” report, that started in 2001 with the support of the regional office of UNICEF for the countries of Central and East Europe and the Baltics.

- In May 2000 the Committee of Ministers to the Council of Europe started the implementation of new methods of combating to the juvenile crimes and about the role of the system of juvenile justice with a resolution of the Committee of the Ministers on the recommendation of the European committee of the problems of crimes to the Council of Europe. The Committee of experts consists of representatives of 21 of all 44 Member States of the Council of Europe and has the task of elaboration of a project about Recommendation of new alternative methods for combating to the youth crimes so as it is stressed specially on the prevention, protection of the rights of the minors in the institutions and due programs for resocialization of the young lawbreakers. Bulgaria takes part in the Committee of experts from its beginning with a representative of the Ministry of justice.
As a result of the consultative process, a decision was made for the preparation a Strategy for reforms in the system of juvenile justice. An intersectorial working group was established for the preparation of the Strategy and the Plan of activities for its implementation with an order of the Minister of justice.
The preparation of the Strategy reflects on the aspirations of Bulgaria to continue the harmonization of the Bulgarian legislation with the international standards. Some of the basic international instruments that put the rights of the children in the centre of the system of juvenile justice are:
- The convention of UN about the rights of the children (1989);
- The minimum rules of UN for implementation of juvenile justice (1985, Beijing rules)
- Guidelines for prevention of breaking of the law by minors (1990, Riad)
- The regulations of UN for protection of the juveniles deprived of freedom (1990)
- The regulations of UN about the minimum standards for alternative measures and sanctions.

Some of the regional standards that are carried by the Parliamentary Assembly and the Committee of ministers to the Council of Europe are substantial in a great extent to Bulgaria and should be taken into
consideration\(^{(1)}\). A Chapter for “Minors deprived of freedom” is included in the 9th common report of the Committee of the Council of Europe from 1999 for averting of the torments and the inhuman and humiliating attitude in which the Committee defines a number of law bails for human attitude towards the minors deprived of freedom: separate rooms for minors deprived of freedom; teams of qualified specialists of different professions; minimum requirements for the conditions on the premises for those arrested; the necessary minimum requirements by the different regimes at the places for deprived of freedom; contacts with the outside world; disciplinary measures; complaints and procedures for inspection; medical treatment.

The Council of Europe has taken a number of acts about the children antisocial behaviour and the crimes done by the minors as:

- The European convention for implementation of the rights of the child, 1996
- Recommendation (87) 20 about the public measures against the anti-social acts of the juveniles;
- Recommendation (2000) 20 about the role of the early psycho-social intervention for the prevention of crimes;
- Recommendation (2000) 22 about the improving of the application of the European rules for the sanctions and the measures in the social field.

**Basic principles**

The National strategy that considerates the rights of the child includes the following principles:

1. The system for combating the juvenile delinquency should be considered as a part of the processes of development of the country in the framework of human attitude towards the juveniles and minors and in such a case the protection of the juveniles and minors is supported so as the safeguarding of the public order.

2. Mobilization of all possible sources including the family, the school, the institutions, volunteers and other public structures with an intention of decreasing the needs of intervention of law.

3. The system for realization of justice towards the juveniles should take into consideration physical and mental condition of these people so as the reaction towards the juvenile delinquents is proportional to the circumstances towards the delinquents and to the circumstances towards the violation of the law.

4. The right of every child that is suspected, accused or acknowledged to commit law violence should be observed in a way compatible with his/her feeling of personal dignity with the purpose to achieve a respect from the child towards the basic human rights and liberties of the other members of the society. At the same time it should be taken into account the age of the child, the necessity of supporting his/her reintegration and the acceptance of his/her constructive role in the society.

5. The court, the prosecutor’s office and the police to have the rights to avoid the cases of law violence that are committed by juveniles and to refer them for non-judicial resolution of cases.

6. Development of alternative measures for those arrested and deprived of freedom.

7. Maximum efforts should be made to cope with the problem in the family environment or in natural social environment when the child violates the law. When a bail is imposed, all possible resources should be used to ensure the contact with family.

8. The system of combating the anti-social behaviour and the crimes done by juveniles and minors should be based on trained and qualified personnel.

9. The efforts of the whole society are necessary for the successful prevention of violation of the law by minors. Good physical and mental condition of the young people from their early childhood should be focused on every program of prevention. 
10. Programs on public base should be developed for prevention of breaking of the law and the social pathologies by juveniles and minors.
11. The arrest, being in custody or being sentenced to be deprived of freedom should be according to the law and they should be used only as a last measure and for as short period as possible.
This national strategy for juvenile justice is based on the best interest of the child to include not only consideration of the rights of the child but also the responsibility for the committed act.
The UN Convention on the rights of the child and other international instruments requires the country to assure the necessary support for the families in order the parents to be able to do their parental obligations. The national strategy takes into account the necessity to work in their family or in social environment with the juveniles and the minors that have violated the law or there is such a possibility of breaking of the law. The strategy estimates the necessity of observation and evaluation of reforms of the system of prevention and combating to the juvenile crimes.

Existing situation

The national reform of the system of prevention and combating of juvenile crimes is based on the international standards so as the traditions and the achievements of the existing Bulgarian system. The main components are:
I. The existing legislative and institutional framework
II. An analysis and evaluation of the data for violation of the law and the crimes committed by minors and juveniles
III. International standards

B. Institutional framework

The Bulgarian legislation does not specifically regulate the specialization of the magistrates on cases of juvenile crimes. There is such a specialization in some courts, prosecutor’s offices and investigating services.
According to the Law for combating the anti-social behaviour of minors and juveniles the system of prevention includes: Central commission for combating against the anti-social acts of juveniles and minors to the Council of ministers, local commissions for struggle against the anti-social acts of juveniles and minors in the municipalities and the regions, public supervisors and social workers, child pedagogic rooms and homes for temporary accommodation of juveniles and minors to the Ministry of Interior, Social-pedagogic boarding schools and Correctional boarding schools to the Ministry of science and education, asylum for uncontrolled children.
The central commission coordinates the activity of the state authorities in connection with the prevention and combating to the child anti-social behaviour, manages the methodical activities of the local commissions for struggle against the anti-social acts of juveniles and minors in the country, makes suggestions to the bodies and institutions, analyzes and generalizes statistical data, studies tendencies, organizes and carries out researches and evaluations, last but not least works towards raising public awareness to the children. The Commission includes vice-ministers of the ministries that have an attitude towards the prevention and combating the child anti-social behaviour, vice-directors of the Supreme Court of Cassation, Supreme prosecutor’s Office of Cassation, National service of security, so as the representatives of institutions and non-government organizations (NGO) whose activity is connected with child problems.
The State agency for child protection is established according to the Law for child protection to the Council of ministers. The agency is a specialized body for management, coordination and control in the field of child protection. A National council for child protection with consultative functions is created to the State agency for child protection in which takes part representatives of The Ministry of
labour and social politics, the Ministry of justice, the Ministry of education and science, the Ministry of health, the Ministry of Interior, the Ministry of finance, the Ministry of culture, the State agency for the youths and sport so as legal entities with non-commercial purposes which aim is an activity for child protection. According to the law specialized bodies for conducting such a policy for child protection in the municipalities are municipal services for social support to which are established departments for child protection.

There is a sector “Child crimes” to the directorate “National police service”. Child pedagogic rooms function to the municipalities and they are managed by inspectors with high pedagogic education. Homes for temporary placement of juveniles and minors are created to the system of Ministry of Interior in which are accommodated juveniles and minors to which is impossible to state their place of living; they are caught in wandering, begging, prostitution, abuse of alcohol; distribution or use of drugs or other intoxicant substances; perpetrators of anti-social acts and being uncontrolled. The stay at the homes is restricted to 15 days, and the stay over 24 hours is permitted by a public prosecutor.

II. Analysis and evaluation of data for violation of the law and crimes committed by juveniles and minors.

Risk factors

The factors that determinate the anti-social behaviour are:

1. Problems connected with the unemployment and the low standard of living;
2. Deformations in the system of values and the negative attitude towards the legal and public norms;
3. Lack of possibilities and unwillingness to fill the spare time of the children with worth-while, useful and necessary for their development activities – sport, creative work and art;
4. Psychic trauma relations at the family and the micro-social environment, pedagogic negligence, criminal irresponsibility and non-punishment of some of the parents;
5. Personal characteristics, social-psychic deformations, loss of values and insufficient self-control by problematic children;
6. Non-coverage and school drop-out of minors and juveniles for which education is compulsory.

The social assessment of the child’s cares in Bulgaria, done in the year of 2000 by UNDP and financed by the World Bank and UNDESA also stresses on the level of the highly unfavourable situation in which a lot of families and children are. It expressed a special concern to the children that are separated from their families, the children of gypsies and families.

The national strategy is focused on prevention and combating the anti-social behaviour of juveniles and minors in Bulgaria with preventive measures the purpose of which is to overcome the negative influence of the family environment, the social and the economic situation in which are the children. A social program with the clear participation of different ministries and organizations and coordination of their activities should be included in the prevention with the purpose of improving the standard of living of the children.

International standards

The legislative and institutional frame for prevention and combating the anti-social behaviour and the crimes committed by juveniles and minors is in harmony in many aspects with the international standards:
1. Guarantees for the human attitude towards the minor delinquents with special rules in the Criminal code, the Criminal-procedure code and the Law for the implementation of punishments.
2. Deprivation of freedom is imposed to minors only as a last resort.
3. According to the Criminal code and the extended application of educative measures is applied restricted force of the punishments as an alternative to the punitive repression with the help of the special Law for struggle against the anti-social acts of juveniles and minors.

4. An alternative approach which is regulated by law – there is a settled procedure for non-judicial resolution of cases – through the Local commissions for combating the anti-social acts of juveniles and minors.

5. Working alternative bodies out of the court according to the recommendations of the Minimal standard rules of UN and article 40 of the Convention of UN for the rights of the children - Local commissions for struggle against the anti-social acts of juveniles and minors.

6. Settled bodies according to the Law for struggle against the anti-social acts of juveniles and minors - Local commissions for struggle against the anti-social acts of juveniles and minors posses a broad range of rights to choose the best suitable measure by the decision of the educative actions in correspondence with the rule 3.3 of the Tokyo rules.

7. Correspondence between the measures provided by the Law and applied by the local commissions and the recommended by rule 18.1 from the Minimal standard rules of UN measures.

8. The imposing of educative measures connected with a separation from the family is possible as a last measure.

9. There is a legal possibility for the public society to take part on national and local level in combating to the child anti-social behaviour through the state-public bodies – Centre commission and Local commissions for struggle against the anti-social acts of juveniles and minors, regulated in the Law for struggle against the anti-social acts of juveniles and minors.

The need of reform

In spite of the conformity with the international standards there are fields which are not entirely harmonized with the international requirements:

1. The necessity of enrichment of the programs for prevention in the different fields of activities.

2. Introduction of new kinds of punishments, imposed to minors.

3. Accelerating of the procedure of restriction and depriving of parental rights for non carry the child.

4. The need of regulation of shorter terms for court cases committed by juveniles.

5. Procedure guarantees and the possibility for appeal against the educational measures imposed in the process of their execution.

6. Introduction of new kinds of educational measures and allocation of funds for the effective execution of the existing measures. Induction of new kinds of measures for influence and the assurance of the effectiveness of sanctions for the parents that do not take enough cares about children.

7. Assurance of full control by the court over the implementation of measures, when the child is separated from the family.

8. Regulatory mechanism for implementation and improvement of the qualification of the specialists, involved in different fields of prevention and anti-social behaviour of minors and juveniles.

9. An insufficient participation of the public society in prevention and combating to the anti-social behaviour of minors and juveniles.

10. The necessity to pilot transitory type of establishments between deprivation of freedom and release.

Main purpose

In correspondence with the principles of the best interest of the child, including the rights and responsibilities of the children, the main purpose of the National strategy is to decrease the crimes and the anti-social activities of the minors and juveniles and the formation of preventive environment.
Basic mechanisms
The main purpose is implemented with the help of the following mechanisms:
1. Development of programs to limit criminal factors, programs for early prevention, programs for children at risk and programs for prevention of the recidivism.
2. Changes in the regulatory base to ensure the best interest of the child effective measures.
4. Specialization of magistrates
5. Working out of alternatives for being under arrest and diversification of the punishments without deprived of freedom.
6. Raising the qualification, improving the abilities and settle the criteria for selection of specialists in the system of prevention and combating to the child anti-social behaviour.
7. Assurance of the system of prevention and combating to the child anti-social behaviour with resources and personnel at central and local level.
8. Consolidation of the interaction between the bodies and the institutions with a clear distinction between their functions and rights.
9. Elaboration of mechanism for coordination on the implementation of the National strategy.
10. Distribution of public information and interaction with the different media.
11. To activate the public society.

6. Conclusion
The National strategy is created for the children, their families and for the society as whole.

(1) The actualized strategy for reforms in the Bulgarian judicial system is accepted with Regulation №260 of the Council of ministries on 21st April 2003.

C. Analysis of the Juvenile Justice System in Bulgaria

General information
Bulgaria has a special juvenile justice system. Although juveniles are prosecuted by regular prosecutors and tried by regular judges there are special material and procedural norms regarding juvenile delinquents. These norms are contained in laws applicable to everybody (like the Criminal Code, the Criminal Code of Procedure and the Law on Execution of Punishments) as well as in special acts such as the Combating Anti-Social Acts of Minors and Adolescents Act, the Correctional Boarding School and Social Education Boarding Schools Regulation and the Child Protection Act which apply only to juveniles. The juvenile justice system’s aims are twofold: on one hand to protect from illegal acts and to prevent and break-off the illegal behaviour and on the other to ensure the normal development and education of juvenile delinquents.

State authorities achieve the above aims by criminal law interventions, by administrative law interventions or by child protection interventions. The type of intervention is determined on case by case basis by the judicial system’s bodies or by a number of special administrative bodies set up to deal with juvenile delinquency.
Courts, prosecutors and examining magistrates form part of the judicial system in Bulgaria. Standing outside the judicial system are police investigators, who are employees of the Ministry of the Interior. Despite the fact that they are subordinate to the executive branch of the government, they operate under the guidance and supervision of the prosecutor.

Also standing outside the judicial system are a number of administrative bodies responsible for the prevention, the breaking of and the reparation of the illegal or anti-social behaviour of juveniles, as well as for their education. Such bodies are, for example, the local commissions and the central commission for combating anti-social acts. Local commissions are established in each municipality. The central commission is in Sofia.

Similarly, outside the judicial system are state and municipal bodies responsible for implementation of child protection activities and measures as set out by the Child Protection Act. These bodies are required in particular to provide special protection to children in risk. Under this category fall, among others, children who have been left durably without parental care, who are victims of misuse and violence or for which there is a danger for impeding their physical, psychic, moral, intellectual or social development. As children in conflict with law are always children in risk child protection bodies are entitled to intervene alone or together with other bodies to deal with juvenile justice cases.

Below we analyze the basic features of the criminal law and administrative law interventions and outline the main authorities, procedures and measures pertaining to the juvenile justice system in Bulgaria.

Criminal Law Intervention in case of Crimes
Criminal law intervention in cases of juvenile offences is regulated by juvenile criminal law, which make part of general criminal law. In contrast to the latter juvenile criminal law is characterized by diversion from the traditional criminal justice methods. Diversion makes possible the use of administrative sanctions and disciplinary measures to replace criminal punishments. Not in all cases of juvenile delinquency is, however, diversion possible.

Scope of criminal law for juvenile offenders
Only those individuals who are at least 14 years of age, who understand the nature and implications of their acts and who are able to control their own behaviour have the capacity to bear criminal responsibility. Minors (individuals below 14 years of age) are not criminally responsible and only disciplinary measures can be imposed on them. Individuals above 18 are criminally responsible for their illegal acts that constitute a threat to public order when the acts correspond to the corpus delicti of crimes listed in the Criminal Code unless they have committed the crime in state of insanity. Adolescents (individuals between 14 and 18 years of age) are subject to specific regime of criminal responsibility and punishments. They are criminally responsible if they were able to understand the nature and meaning of the act and to manage their actions.

Criminal law interventions with respect to juveniles differ and adults differ from one another. Juveniles are more likely to be released from criminal responsibility and their acts to be examined by bodies outside judicial system. They can subject to different regimes with respect to conditional sentencing, early release and rehabilitation. Finally criminal law intervention in cases of juvenile delinquency takes place in accordance with different proceedings and has different legal consequences.
Proceedings and legal consequences of the criminal law intervention

Criminal proceedings against juveniles are different from general criminal proceedings in several aspects. The main are the following: if necessary the interrogation of juveniles may include a pedagogue or a psychologist, who may ask questions. Parents or guardians participate in the proceedings too. The participation of a defence lawyer is mandatory when the accused is a juvenile. The court of first instance is constituted of one judge and two accessories as opposed to one judge in general criminal proceedings. In addition accessories must be teachers or educators. Finally, court hearings against juveniles are conducted behind closed doors, while hearings against adults are public as a rule.

Criminal law intervention may lead to remand measures. It may also end up with a criminal punishment or with diversion of the juvenile offender from the criminal law system and the imposition of discipline measures on him/her.

Remand in custody of juveniles

Remand measures with respect to juveniles are: supervision by the parents or the guardian; supervision by the administration of the educational establishment where the underage person has been placed; supervision by the inspector at the child pedagogical facility; or by a member of the local Commission for Combating Anti-Social Acts of Minors and Underage Persons, and remand in custody. The latter is the severest remand measure.

Remand in custody can be imposed by courts, prosecutors, investigating magistrates and the police. It can be taken in exceptional cases only. In pre-trial proceedings, remand in custody cannot exceed one year if the accusation is for a grave intentional crime for which the provided punishment is imprisonment for 5 years and more, and 2 years if the accusation is for a particularly grave intentional crime for which the provided punishment is imprisonment not less than 15 years or life imprisonment. In all other cases, it cannot last more than 2 months. The Prosecution Office within the framework of pre-trial proceedings can order remand in custody for up to 72 hours, while Investigation Service can rule remand in custody for up to 24 hours. The police can detain for up to 24 hours too.

Ending Criminal Intervention with Criminal Punishment

When criminal responsibility is sought from a juvenile offender, he or she can be sentenced to the following punishments:
1) deprivation of liberty;
2) probation;
2) public censure;
3) deprivation of the right to exercise certain vocation or activity.

Characteristics of criminal punishments

Deprivation of Liberty

Juveniles can be sentenced to deprivation of liberty for the same illegal acts for which imprisonment is prescribed for adults. There are few differences though:

Life imprisonment cannot be imposed on juveniles. Also, regular punishments are replaced or their terms diminished when imposed on juveniles. The maximum duration of imprisonment for juveniles can be up to 10 years for children between 14 and 16 and up to 12 years for young persons between 16
and 18. Finally, the law stipulates that imprisonment for up to one year shall be replaced by the court with placement in a correctional boarding school.

Before reaching full age adolescent serve punishments of deprivation of liberty in reformatory establishments. There is one reformatory establishment for boys in Bulgaria, which is situated in the town of Boichinovtsi. There is no such an establishment for girls because there have never been more than a few girls sentenced to imprisonment or detained pending trial. For that reason girls are detained or imprisoned in the women’s prison in the town of Sliven where they stay in a separate ward.

Probation
Probation is a system of non-custodial measures for control and intervention that are imposed separately or collectively. Probation measures are compulsory registration at the current address; mandatory regular appointments with a probation officer; restrictions on free movement; admission to vocational training courses and/or public intervention programmes; corrective labour; community service. All probation measures can be imposed on juveniles who have turned 16 years of age. Corrective labour and community service cannot be imposed on juveniles who are below 16 years of age.

Probation measures have the following duration:
1. From 6 months to three years with respect to compulsory registration, mandatory regular appointments, restriction on free movement and admission to vocational training courses;
2. From three months to two years with respect to corrective labour;
3. From 100 to 320 hours a year in no more than three consecutive years with respect to community service.

Compulsory registration and mandatory regular appointments are imposed on all offenders sentenced to probation whereas the court has discretion with respect to the other measures.

Public censure
The punishment of public censure consists in public denouncement of the culprit, which is made known to the respective work collective, through the press or in another appropriate manner, in accordance with the instructions given in the sentence.

Ending Criminal Intervention with Diversion from the Judicial System
The premises for exemption of juveniles from criminal responsibility are specified in the Criminal Code. Exemptions from criminal responsibility are allowed in cases where:

1. The criminal act does not constitute great social danger;
2. The criminal act was carried away because of obsession or frivolity;
3. There is a fair chance the juvenile offender will be reformed following the application of disciplinary measures only.

Competent authorities to exempt juvenile offenders from criminal responsibility are the Public prosecutor and the Court. In such cases disciplinary measures under the Combating Anti-Social Acts of Minors and Adolescents Act are imposed by courts or local commissions for combating anti-social acts of minors and adolescents.
Administrative intervention in case of administrative violations and significant anti-social acts
Administrative law intervention in cases of administrative violations committed by juveniles is regulated by administrative law.

Scope of administrative law for juvenile delinquents
Individuals who have turned 16 years of age, who understand the nature and meaning of their acts, and manage their own behaviour are administratively responsible. Individuals of 18 years of age and older are administratively responsible to the full extent.

Legal consequences of the administrative intervention
Administratively responsible individuals who have committed an administrative violation can be punished with a fine, public censure, or revocation of the right to exercise a certain vocation or activity.

Upon committing an act amounting to minor misdemeanour\(^1\) those who have turned 16 years of age bear administrative responsibility and may be punished with a fine and a special administrative punishment – detention in the units of the Ministry of the Interior for a period of up to 15 days or a fine. The Minor Misdemeanour Decree prescribes that where the nature of the act and the personality of the defendant suggest that Local Commissions for Combating Anti-social Acts of Minors and Adolescents can successfully impose disciplinary measures the latter shall be imposed instead of the above administrative punishments.

In cases of sport hooliganism in the course of a sport event the court may impose on juveniles, who are between 16 and 18 years of age, the administrative punishment of detention in the units of the Ministry of the Interior for a period of up to 10 days. In such cases the court may also prohibit the delinquent from attending sport events in the country or abroad for a period from one to two years. When the delinquent has not turned 16 years of age the disciplinary measures under the Combating Anti-social Acts of Minors and Adolescents Act are to be imposed.

Disciplinary measures as alternatives to criminal or administrative punishments
Like the Criminal Code, the Administrative Offences and Penalties Act provides the possibility for exemption of juveniles from administrative responsibility for minor offences. In such cases, illegal acts are reported to the local Commissions for Combating Anti-social Acts of Minors and Adolescents, which can impose disciplinary measures.

Disciplinary measures are regulated by the Combating Anti-social Acts of Minors and Adolescents Act (below referred to as CAAMAA). They are regarded as alternatives to punishments and can be imposed on juveniles excepted from criminal or administrative responsibility. In contrast to administrative or criminal punishments, disciplinary measures are not an expression of state repression implemented on the occasion of an offence or crime. These measures do not require the existence of

\(^1\) According to Article 2 of the Minor Misdemeanor Decree, a minor misdemeanor is defined as any improper conduct, which may take the form of: swearing, verbal harassment or other abusive language used in public before a group of people; insulting behavior or conduct towards other citizens, authorities or the public; or a quarrel, fight or other similar acts that violate public order and peace. Because these acts present a lesser degree of social threat they do not amount to crime of hooliganism under the Criminal Code.
guilt and can be imposed not only on adolescents, but also on minors. Disciplinary measures’ purposes are to correct behaviour’s deviations, to prevent future violations and to ensure social integration.

**Description of the Main Authorities, Procedures, and Measures under the CAAMAA**

The special authorities responsible for juvenile justice system include: Commissions for Combating Anti-social Acts of Minors and Adolescents (the Central, Local, and School-based ones); Inspectors from Child Pedagogical Centers (which exist in each municipal police office); Social Educational Boarding Schools; Correctional Boarding Schools; Homes for the Temporary Placement of Juveniles; and Shelters for Children without Parental Supervision. The Commissions and Inspectors from Child Pedagogical Centers play a central role in the above system of authorities.

The Central Commission has specific responsibilities in determining and controlling the implementation of state policy with regard to juvenile offenders. The 2004 Amendments to the CAAMAA increased the powers of the Central Commission by granting to it new responsibilities such as the designing of methodological programs and the coordination of the activities of state bodies and non-governmental organizations in the field of combating juvenile delinquency. The Central Commission operates as a separate unit, administratively subordinate to the Council of Ministers. Deputy Ministers of most important ministries and agencies are members of this Commission, as are other eminent public figures. A Deputy Prime Minister chairs the Commission.

Local Commissions have been established in each municipality. These are composed of municipal administrative officers responsible for implementing child-focused activities in areas such as education and public health, as well as police officers and local public figures. By law, a prosecutor from the District Prosecutor’s Office must be present at sessions of the Commission. The Deputy Mayor chairs the Commissions. Members are paid for their public service in the Commissions from municipalities’ budgets.

Local Commissions centre their activities on the administration and implementation of the policy for prevention and combating of juvenile anti-social conduct. Their functions are preventive, monitoring, consultative and social. Local commissions exercise also control over the other local bodies that deal with juvenile delinquencies such as Child Pedagogical Centers, Social Educational Boarding Schools, Shelters, Correctional Boarding Schools, Correctional Homes, and Homes for Temporary Placement, as well as over custodians and guardians of persons who have not come of age.

**Measures**

From all the above authorities only the Local Commissions may impose disciplinary measures on juvenile offenders. Measures can be divided into several groups, depending on their nature and orientation:

1. Measures of a moral nature:
   - Warning; and
   - Warning on possible placement in a Correctional Boarding School within 6 months of probation.

2. Measures related to various types of supervision:
   - Remand in custody of parents, or foster parents with instruction for special care;
   - Placement under the correctional supervision of education officer.
3. Measures related to certain obligations of offenders:
   • To participate in counselling, training sessions and deviant behaviour management programmes;
   • To present apologies to the victim;
   • To remove the damage with own labour where possible;
   • To perform community service.

4. Measures related to certain bans:
   • Banning from certain locations and establishments;
   • Banning from associating with certain persons;
   • Banning from leaving current domicile.

5. Measures related to placement in special institutions:
   • Placement in a Social Educational Boarding School;
   • Placement in a Correctional Boarding School.

Disciplinary measures have no minimum duration established by law. All measures related to bans and measure of placement under correctional supervision of an education officer can be imposed for up to one year. The Regulation on Social Educational Boarding Schools and Correctional Boarding Schools provides that placements in both schools cannot last longer than 3 years. Exceptions are possible only after the child has consented in writing with the purpose of completion of his/her educational level. Children’s behaviour is required to be assessed in the end of each school year and in case of positive assessment the placement may be terminated before the term set.

Local Commissions may warn and fine parents, where they have not taken proper care of their children, or may require them to attend educational lectures and consultations. Local Commissions may propose the limitation or full revocation of parental rights.

The Commissions may take disciplinary measures in cases of:
   • Anti-social acts;
   • Administrative offences where perpetrators do not have the capacity of holding, or have been exempted from, administrative responsibility;
   • Crimes where perpetrators do not have the capacity of holding, or have been exempted by a Prosecutor or the Court from, criminal responsibility;
   • Actions for which other acts prescribe imposition of disciplinary measures under CAAMAC.

Disciplinary measures may be imposed against offenders who are 8 years old minimum. Depending on the nature of the offence and the conduct of the juvenile offender, two disciplinary measures may be imposed at once.

CAAMAA regulates the proceedings for examination by local Commissions of cases initiated by them or referred to them. When the decision sets out for placement in a Social and Pedagogical School or a Correctional Boarding School, the file is officially referred to the District Judge. The court may uphold the Commission’s decision, repeal it and set the file aside, or impose another measure. It may also repeal the decision and dispose of the file. The court rules in camera. Decisions, which uphold the placement to the above schools, can be appeal before the Regional Court.
Child Protection Intervention in cases of Juvenile Delinquency

Juvenile delinquents are always children in risk and measures of child protection can be implemented with respect to them. Child protection is regulated by the Child Protection Act and administered by the State agency for protection of the child, municipal Child Protection Agencies, the ministers of labour and social care, of interior, of education and science, of justice, of culture, of health as well as the municipal mayors. Direct contacts with children and their parents have the Child Protection Departments, which established within the Agency of Social Support with the Ministry of Labor and Social Care and operate on regional level.

The special protection of juvenile delinquents as children at risk includes preventive and protective measures in both family and non-family environments. In the family environment, these measures are intended to provide educational, psychological, and legal assistance to parents, referral to social rehabilitation and integration centres, and consultations for children and parents. The Child Protection Agencies also offer assistance in improving living conditions, as well as in conflict-resolution and crisis management in child-parent relations.

Measures for protection in a non-family environment consist of:

- Placement in families of relatives or close friends;
- Adoption;
- Placement in receiving (foster) families;
- Placement in specialized institutions.

The principle of subsidiary is applied in the process of determining the measures to be taken. Placement in special institutions (i.e. not limited to correctional boarding schools and social education boarding schools) is used only as a last resort when all possibilities of leaving the child in a family environment have been exhausted. Only the District Court may place children outside their families.

Comments on the efficiency of the juvenile justice system in Bulgaria and its compliance with international juvenile justice standards - Comments are provided by the Institute for social activities and practices and do not engage the official institutions

The juvenile justice system in Bulgaria is administered by a number of bodies which follow similar aims but through different means and on the basis of sometimes different assumptions. Criminal and administrative law interventions in case of juvenile delinquency existed prior to the adoption of the 1991 UN Convention on the Rights of the Child and the 2000 Child Protection Act. The latter introduced the child protection intervention which reflects the assumption that children have rights and are entitled to special protection by the States. In contrast to the criminal and administrative law interventions, the child protection intervention focuses only on prevention and rehabilitation of young offenders and on promotion of child’s healthy development, including physical, psychological and social development.

The juvenile justice reform in 2003 aimed at bringing the criminal and administrative law interventions in compliance with international juvenile justice standards. In other words child protection ought to become the leading intervention in dealing with juvenile delinquency. As a result are made and published many comments and recommendations by the national\(^2\) and international

\(^2\) Comments about the Draft law for Amendment and Supplement to the Juvenile Delinquency Act (No. 302-01-45/17.09.2003) by judge Miroslava S.Todorova, Sofia City Court, V.T. Vasilev – lawyer and Jaap E. Doek – Head of UN Commission on the rights of the child.
experts which tend to define some problems in juvenile justice system. The reform consisted of the adoption of a national strategy and plan for prevention and counteracting juvenile asocial behaviour and offences as well as amendments to a significant number of provisions in the CAAMAA. Despite the fact that these amendments addressed major deficiencies in the juvenile justice system which hampered its efficiencies they failed to bring the juvenile justice system in Bulgaria in compliance with international standards. Below are examined several important deficits:

1. The juvenile justice system in Bulgaria is not unified but rather overlapping of several independent systems, such as the police, the judiciary, prisons, which handle also “adult” cases. Prosecutors and judges are the same persons who prosecute or hear regular criminal cases, and the court room is used for all proceedings. Even defence attorneys are not specialized in juvenile cases.

2. It is difficult even for lawyers to understand the juvenile justice system in Bulgaria because it is based on a large number of legislative acts and administered by a large number of authorities. In addition the system is inconsistent because interactions between these bodies are not defined on case by case basis but in abstract. For that reason often similar cases are examined by different bodies around the country. For example, the child protection agency deals with a case of child prostitution in one region, while in another region the same case is examined by the local commission for combating anti-social acts. The consequences for the child are different in both cases. In the first case the child will be treated as a victim entitled to receive help and assistance while in the second the child shall be treated as a perpetrator of an anti-social act and may end up in a correctional boarding school.

3. Rehabilitation and reintegration of the child are not always the guiding principles in dealing with juvenile delinquency. For example, it is doubtful that the placement of children victims of crime in Social Educational Schools would ensure the promotion of their healthy development because also perpetrators of offences can be placed in these schools, according to the Correctional Boarding Schools and the Social Education Boarding Schools Regulation.

4. In contrast to child protection agencies and in contradiction to international child protection standards local commission for combating juvenile delinquency are not under duty to follow a holistic approach in handling individual cases. For example, local commissions impose disciplinary measures, while international standards provide for respect of all rights of the child in conflict with law, including protection against poverty, promotion of healthy development, and provision of special care and assistance.

5. Incarceration is a mandatory sentence in cases of severe crimes committed by juveniles. Judges cannot refer such cases to local commissions. The legal restriction for them to do so violates a cardinal principle of juvenile justice because mandatory sentencing pre-empts individualised treatment; it categorically elevates other criminal law objectives over the rehabilitation needs of boys and girls who are in trouble with the law.

6. The juvenile justice system in Bulgaria does not include checks for discriminatory practices because authorities do not collect ethnic data in dealing with individual cases. The lack of ethnic data hinders monitoring of and protection against discrimination.

7. The government’s budgetary allocations for countering juvenile delinquency are unclear because the authorities empowered to intervene in such cases have separate budgets. In reality all authorities complain that their resources are insufficient to accomplish their tasks.
D. SOURCES OF INFORMATION

Statistical surveys in the field of criminality and justice are organized and conducted by the Ministry of Interior, the National Statistical Institute and the Ministry of Justice.

**Object, scope and units of survey**

Statistical survey on registered criminality

The object of the survey is criminality registered by the bodies of the Ministry of Interior. The units of the survey are registered criminal and discovered economic offences and the suspected persons. The technical units of the survey and the source of information are the Territorial Offices at the Ministry of Interior, where the committed criminal and economic offences are registered.

Statistical survey on punished criminality

The object of the survey is the activity of regional, district and martial courts on penal cases. The units of the survey are convicted persons with effective sentences and crimes ending with a sentence. The technical units of the survey and the sources of information are the regional, district and martial courts.

Statistical survey on imprisoned persons

The units of the survey are accused, defendants and convicted persons. The technical units and the sources of information are prisons and investigation detention facilities.

Statistical survey on anti-social acts of minor and juvenile persons

The object of the survey is the activity of local commissions for prevention of minor and juvenile delinquency. The units of the survey are minors and juveniles that have committed anti-social acts. The technical unit of the survey and the source of information is the local commission for prevention of the minor and juvenile delinquency.

Data on punished criminality (crimes with effective sentences and persons convicted) is obtained by processing of information from the regional, district and martial courts proceedings on penal cases. Data on activity of the martial courts is included since 1998. Data about the results of proceedings of the Supreme Court of Cassation is excluded.

The number of crimes and persons convicted referring to a certain reporting year covers those cases in which the sentence has come into force in the same year.

The indicator ‘Persons convicted’ covers all convicted persons, including conditionally sentenced persons.

The age of the convicted persons is shown in completed years at the moment of committing a crime.

Juvenile persons convicted are included in the total number of persons convicted.

When using information about prisons and investigation detention facilities one should keep in mind that the indicator ‘Accused persons’ includes all detained persons until the moment of handing of the indictment.

The indicator ‘Defendants’ includes detained persons, who were handed the indictment, but are not convicted with sentences come into force.

The following should be kept in mind when using data about the anti-social act of the minor and juvenile persons:

An anti-social act is a guilty act committed by minor and juvenile persons subject to educative measures according to the Law for Prevention of the minor and juvenile delinquency.

Educative measures are imposed on the offenders according to the Law for Prevention of the minor and juvenile delinquency.

Child pedagogic rooms are special institutions for the prevention of crimes and anti-social acts, committed by minor and juvenile persons.
More statistical information on punished criminality (crimes and persons convicted with sentences come into force) can be found in the annual NSI electronic publication ‘Crimes and Persons Convicted’.

1. ANTI-SOCIAL ACTS COMMITTED BY MINORS AND JUVENILES

The Child pedagogic rooms are special institutions for the prevention of crimes and anti-social acts, committed by minor and juvenile persons.

The number of children passed on to the CPR for committed anti-social acts increased from 10305 in 2000 to 12407 in 2005. The number of minors included in the total number decreases with 267 children for this period. The number of juveniles increases with 2369 children or 35.1% for the same period. (table 1, annex crime dataNSI.xls)

In 2005 the highest share of the children referred to the CPR is of children who run away from homes (18.3%). They are followed by children who run away from school (15.2%). The share of the children that are in CPR because of wandering and begging is 12.4%, followed by those for hooliganism (including football) – 12.1%. The tendencies could be study in Table3. Children passed on to Child pedagogic rooms for committed anti-social acts and children perpetrators of crimes. (annex crime dataNSI.xls)

Children perpetrators of crimes that referred to the CPR in 2005 are 9720 and they are with 32.1% more in comparison with the year of 2000. The perpetrators of thefts are 6304 (64.9% of the total number of children in CPR) in 2005. The number of children that have done burglaries varies through the period 2000-2005 - the smallest one is in the year of 2000 – 2465 and the highest one is in 2004 – 3139. The changes through the period could be studied in details in Table3. Children referred to Child pedagogic rooms for committed anti-social acts and children perpetrators of crimes.

The number of minor and juvenile persons with imposed educational measures includes minors and juveniles who had committed anti-social acts and juvenile perpetrators of crimes, released from criminal responsibility according to Article 61 of Penal Code and in relation to whom had inflicted educational measures according to the Law of prevention of Juvenile Delinquency. Depending on the nature of the offence and the behaviour of the juvenile delinquent more than one measure is imposed according to the Law of Prevention of Juvenile Delinquency.

Educational measures are imposed to 8186 minors and juveniles in 2005. Educational measures are imposed for committed anti-social acts to 1838 children and for committed crimes to 6348 children (table 4).
The data about the accused, defendant and convicted juveniles in the reformatory establishment for boys in Boichinovtsi are represented in table 6. In 2005 the accused juveniles are 57, defendant juveniles – 41 and convicted juveniles are 43. The tendencies for the period 2000-2005 could be observed with the help of data in table 6. Additional information about accused, defendant and convicted juveniles in the reformatory establishment for girls in Sliven is expected to be provided later from the Ministry of justice and will be sent immediately to Innocenti Centre.

CONVICTED JUVENIELS

The convicted juveniles are 3273 in 2005 while their number is 3392 in the year of 2000 – that is a decrease with 3.6% in comparison with the year of 2000. There is a slight increase in the total number of convicted juveniles for the year of 2002 and the year of 2003 (respectively with 4.6% and 8.5%) in comparison with the year of 2000, followed by a slight decrease in the next two years. The decrease by males is with 3.9% in 2005 compared with the year of 2000 while there is a slight increase by females with 1.8% in 2005 compared with the same year. (Table 5)

In 2005 3 273 juvenile persons (from 14 to 17 years old) are convicted, comprising 10.7% of the total number of convicted persons. The decrease in the number of convicted juveniles is by 4.0% compared to 2004, when their number is 3 408.

The conditional sentence are imposed on 1 439 persons, or 44.0% of the total number of convicted juvenile persons. 1 545 juvenile persons are sentenced to imprisonment (compared to 1 761 in 2004) and 1 240 are sentenced to public censure. Probation is imposed on 137 juvenile persons, or 4.2%.

The convicted juvenile persons at the age of 17 accounts the highest rate of criminal activity (1 188 on 100 000 persons of the respective population), followed by the criminal activity of convicted persons aged 16 (907). For persons at the age of 15 , this rate is 686 persons, and for those at the age of 14 is 476 per 100 000 persons of respective population. (table 6).

2 660 juvenile persons are convicted for crimes against property, and in the case of theft of property crimes the number is 2 251 (compared to 2 402 persons in 2004, or 6.3% less). The share of persons, convicted for theft is 68.8% of the total number of convicted juvenile persons, which is 1.7 points less in comparison with 2004. 281 persons from 14 to 17 years of age are convicted of robbery of property, or by 17.8% less than the previous year.
As regards crimes against persons an increase in the number of convicted juvenile persons is observed (from 141 in 2004 to 192 in 2005, or by 36.2%). 7 juvenile persons are convicted of intentional homicide in 2005 (compared to 11 persons in 2004, or by 36.4% less). 90 juvenile persons are convicted for debauchery, of which 32 persons for rape (compared to 20 persons in 2004, or by 60.0% more).

76 juvenile persons are convicted of theft of motor vehicle, or 5.6% more in comparison with the year of 2004. There is an increase in the number of convicted persons from 14 to 17 years of age for drug-related crimes - from 96 persons in 2004 to 102 in 2005, or by 6.3% is apparent.

The main socio-demographic characteristics of convicted juvenile persons are as follows:

- The males are 3 105 (94.9%), and the females are 168 (5.1%).
- The share of convicted juvenile persons, at the age of 17 is the biggest one - 37.5% (compared to 37.1% in 2004). The biggest decrease is apparent in the number of convicted persons aged 14 years in relation to the previous year (from 451 in 2004 to 438 in 2005, or by 2.9%). A decrease in the number of convicted persons, aged 15, 16 and 17 is observed respectively by 4.2, 5.6 and 2.9%.
- At the time of committing a crime, 1 529 persons from 14 to 17 years of age do not go to school or do not have a job (46.7% of the total number of convicted juvenile persons, compared to 47.2% in 2004). The number of convicted juvenile persons going to school regularly, is 998 (30.5%), and 50 juvenile persons work without going to school.
- 1 089 juvenile persons, or 33.3% live in conflict family environment, criminal family environment and circles of friends.
- 1 778 persons (54.3%) have serious deficiencies in education; 852 of them are illiterate, or have not finished their education.
- of conviction on them; 193 persons (5.9%) are settled in boarding schools before committing a crime; 94 juveniles (2.9%) are serving term in reformatory.
- At the time of committing a crime 688 juvenile persons systematically or occasionally consumed alcohol, while 127 persons are addicted to drugs.

1 291 juvenile persons (39.4%) are registered in the Child pedagogic rooms before committing a crime; educative measures are imposed on 717 persons (21.9%); 163 persons (5.0%) are settled in social-pedagogic boarding-schools before the infliction

By level of education

3105 or 94.87% of the convicted juveniles are males and 168 or 5.13% are females. Most of the convicted males are with basic education - 40.7% of all, 27.04% of all are males with primary level of education and 17.48% of all are unlettered males. Most of the convicted females are with basic level of education, too – 1.96% of all convicted juveniles and 1.53% of all are unlettered females.

The comparative analysis over time should be based on number of crimes with penalty inflicted, number of convicted juveniles as well as the convicted persons per 100 000 of the population at age of 14-17 years.
The tendencies in the coefficient of criminal activity of juveniles are illustrated in the following figure. The biggest number of convicted per 100000 of the population of 14-17 years of age is in 2003 after that the decrease is observed, but the value is higher in comparison with the year of 2000.

The analysis of the topic of Children in conflict with the law is an extremely wide field and the use of statistical data only is possible to lead to incorrect conclusions, if not complete with a system analysis. Deep professional analyses in this field could be done only by teams of specialists in different fields. The harmonization of the data and the achievement of international harmonization should be preceded by an analysis of the national legislations of the countries to produce indicators with an unambiguous content. For example, different procedures could be enforced on the arrested persons in the different countries according to the national legislations of the countries. The national institutions that the National Statistical institute corresponds with bring up the request of formulation of definitions, methodology and the coverage of the indicators.