

CRIMINAL RESPONSABILITY OF CHILDREN IN THE GLOBAL CONTEXT

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Abstract

The reality of modern society shows us the study of the law and practice of treating children in conflict with the law.

National and international research into juvenile delinquency demonstrates an alarming increase in the number of crimes committed by them. Intervention of state actors' policies should materialize in legal norms and standards for preventing and combating juvenile delinquency.

Committing antisocial deeds by minors generates a lack of profile control, awareness and responsibility of these facts.

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1. The phenomenon of juvenile delinquency

Social problems facing the human community presented globally generates a series of transformations on policies of developed States, in order to ensure a harmonious development among the relations between authorities and citizens with a positive impact respect for the rules of law and human values, the premise of a civilized society.

Functioning of society is influenced by the way in which individuals in the relationship with the State form a normative ethical model of governance what determines the institutional plan and social development and the application of efficient and effective legal norms on the entire human capital.

Under these aspects human collectivity comprises elements of a vast complexity of rules and regulations requiring certain behaviors, attitudes in relation to self and others.

Compliance provides a specific conduct, given by the social norm that establishes how members should behave in society, under certain conditions, to ensure that their action should be efficient and appreciated (Boboș, Buzdugan & Rebreanu 2008). Thus the social order is ensured by encouraging social norms to support social control and to prevent socio-economic imbalance, because no society cannot do without them, being unrealistic a society without rules of behavior (Bădescu 2004).

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In this regard, we note that the existence and evolution of society is inextricably linked to the attainment of the common good, looked like an agreement between the interests of the individual and those of society, postulating the goodwill as mobile capable drive in the safest way to the achievement of this agreement (Stere 1979).

The need for self improvement and to self - improve contemporary society concerning the solving of social and legal attention by addressing us an inherent element: researching, preventing and combating juvenile delinquency.

Treated from the social point of view, child crime is closely related to how the society as a whole, including the family, school, social mechanisms, control, enforcement and social rehabilitation, the culture of a society, inequities of social perception, poverty, the lack of relationship besides resources, depriving opportunities, marginalization, anomia (Andronache 2014).

The phenomenon of juvenile delinquency acquires multiple valences, sparked interest among specialists in the field of legal science of Psycho-pedagogy, concerned about being adolescent crisis occurred at the level of the young educating. Need new visions on this issue it's manifest. If we neglect today, tomorrow we will have a generation of young offenders-people who have missed the future not only of his own guilt, but also due to general social indifference, as well as those called to facilitate integration into the social ambience (Rotari 2010).

The effects of this phenomenon have a certain degree of resonance: the person in charge of your own destiny, as well as a member of the community in which it participates. They should be included in a democratic society: justice, freedom, equality, solidarity, tolerance, responsibility, with negative impact towards guaranteeing and promoting the rights and freedoms of human mental bow (Rotari 2010).

The term derives from Latin delinquency where, have the meaning of "mistake", while the "crimen" means "crime" that were associated meanings of "accusation", "imputation", "infliction of a harm". On the basis of the significance of the etymology the terms referred to above, shall be distinguished as distinct concepts, to be laid down, in particular, the concept of the deviant actuality, consisting in "any act, conduct or manifestation which violates the rules written or unwritten laws of society or of a particular social group (Nistorianu & Păun 1995) " and the design of the youthful (Aramă 1997).

The concept of the deviant actuality has been drawn up by Sellin in 1938, which has studied the complex problems of criminology, defining it as "the behaviors directed against the rules of conduct or against the institutional order". Also Merton underlined in 1957 that "the deviant means all behaviors, which threatens the balance of social system". However a clear definition of this concept find in the doctrine of criminal prosecution and the sociological in an attempt to group the offense depending on the age of the one who has committed it.

Another definition of juvenile delinquency rate came in the demonstration of the specific features of the minor's delinquent personality. So, it was to devising a "psychological profile" or latency, be manifested, which is based on a background of hostility, to deny social acceptability (work, for example); emotional instability generated by the educational shortcomings and, ultimately, the frailty of the awakening; social inadaptation originating from the exacerbation of the feeling of insecurity, on which the minor seeks to suppress it by changing the frequency of residence, vagrancy times by avoiding organized forms of life and work; duplicity in the health of behavior, as evidenced in the discrepancy between two planes: one, that of the deviant behavior, in which the intimate, prepare the offense and the other one - the level of the behavioral relationship with the society, through which he betrays the most of the times the offense; existential imbalance, expressed in terms of the passions, vices, perversions (Andronache 2014).

If in our country of the offenses committed by minors are specified in the doctrine of the specialty under the name of "crime youthful" or 'intelligence unit youthful", having regard of the same meanings, in states like France, Germany where he uses the term 'significant criminal juvenile", "juderd kriminalitat".

Regarded as, all the irregularities and infringements of the rules, legal, social sanctioned committed by minors under the age of up to 18 years, delinquency, youthful includes antisocial behaviors manifested through the aggressiveness and violence by minors, in which it enjoys a special regime concerning the responsibility for his deeds.

We also consider opportune the definition of the concept of 'a minor", which is used in the science of criminal proceedings under the name of "child", a teenager", because it corresponds to the criminal treating you different, although the Penal Code in Romania deals with the Title V, minority, regarded as a stage to the age of a person, where the minor is the person who has not attained the age of 18 years.

The same legal sense is highlighted in Article 1 of the Convention on the rights of the child¹: every human being below the age of 18 years, except in cases where the law applicable to the child established under this age limit of majority", defines the concept of "child". In the co-ordination of the documents referred to above, we find that the meaning of "minor" is synonymous with the "child".

A definition of the term "child" in the Treaties, the legislation and jurisprudence of the EU varies according to the context of the regulations. For example, by means of a judgment its decision on 15 December 2016, the Court of Justice of the European Union has shown that, according to Regulation (EC)

¹ General methodology adopted by the United Nations Meeting on 29 November (1989) and ratified by Romania by Law No 18/(1990), which shall be published in the M. Oh no. 314 of June 13, (2001).

No 492/2011 on freedom of movement for workers within the European Union, as well as in the field of citizenship of the Union defines as "direct descendants children under the age of not more than 21 years or who is in maintenance as well as direct descendants of the husband or partner", by adopting a concept based on biological and economic relations, and not on the idea of a minority².

In accordance with Directive 94/33/EC concerning the protection of young people at work, the official legislation in the territory of the Member States of the EU, distinguish the definition of the concept of "young"- any person aged up to 18 years, "teenagers" - any young person above the age of at least 15 years and not more than 18 years, which is no longer subject to compulsory schooling on a full-time basis, imposed by national legislation, and the "Children" - any young person who has not reached the age of 15 years or which is still subject to compulsory schooling on a full-time basis, imposed by national legislation³.

The aspects of the concept of "a minor" meet them at the same time and in the domestic legislation, in its Recommendation concerning measures for the prevention of juvenile delinquency rate, approved by the disposal of OCP no. 17 on 15.10.2014, to clarify their meaning: a person who has reached the age of penal liability but not of age, is a child or a young man who, in relation to the legal system deemed to be able to respond to an offense in accordance with arrangements other than those which are applied in the case of an adult. It should be noted are the elements of the application of the liability of the minor, through the different ways to those of an adult which give priority to the principle of the best interests of the child.

Also the domestic legislation referred to in Article 4(a) of the Law no. 272/2004 on the protection and promotion of children rights, defines the child as "person who has not attained the age of 18 years and has not acquired the full capacity to exercise, in accordance with the provisions of the law."⁴ Therefore, it appears that the cumulative two conditions must be fulfilled, namely the person has not reached the age of 18 years and person not to be acquired exercise capacity. Referring to the two conditions determine the capacity of the civil liability of the child, ending with the completion of the status of a minor.

Therefore, Article 28 C. Civil Code which in paragraph (1) recognizes the capacity of the civil society of all persons (Baiaş et al 2012), declaring that any person has the capacity to use and, except for the cases provided by law, exercise capacity. As stated in the current law, any person shall have legal personality through the mere fact of its existence without this to be conferred as a result of the existence of. As a result of a child's presumptive laws, it

² <https://legestart.ro/studiu-de-caz-drepturi-sociale-transfrontaliere>.

³ Directive 94/33/EC of the Council of 22 June (1994) on the protection of young people at work, OJ L 216, 20 August (1994), p. 12, Article 3.

⁴ The Law 272/2004 regarding the protection and promotion of children rights, modified and republished in M. Oh, Part I, No 159 of 5 March (2014).

recognizes the quality of the subject of law, may participate, in so far as the law allows, in the life of the social legal person. (Drăghici 2013)

2. Global legal instruments concerning the juvenile delinquency

In the last period, contemporary developed countries are more and more concerned about the existence of legal rules which guarantee the protection and to ensure optimum development of children which are in breach of the penal law.

The model in most protectionist societies created at the beginning of the 20th century, who proposed that the ultimate objective of child protection, began to be increasingly contested. The inability of this model to lead to an actual reduction in the phenomenon of juvenile delinquency rate has led to the specialists in the field, and the authors of criminal policy to seek a solution to the problem of the crimes committed by the minors (Cuşmir 2014).

In the new approach to the fields of juvenile crime is focused on ensuring legal rights and guarantees of minors, on decriminalization, and the creation of alternative extra-judicial authorities, which seeks to set a ballance through the adoption of a child-appropriate penalties, the offense committed and its personality. (Barry 1999).

The purpose of the juridical system, within the framework of this new model, is to penalize the minor child, and the Penal model is claimed in the first row of the need to protect the Community (Shireman & Reamer 1986).

The model protectionist in the administration of justice for minors, referred to in the document rules in Beijing⁵, which stipulates the reduction of the need for intervention of the law by a social protection provided by family, school and community. It should be noted that the document represents a general framework, socio-educational after which should operate the juvenile justice, having the status of the Treaty, is not binding, being only a fair and human answer given children who might find in the conflict with the penal law (Andronache 2014).

And yet a part of these Rules have a size found imperative, in the present in the UN Convention on the rights of the child⁶, who in the situation was committed a breach of criminal law provides a treatment in accordance with the sense of dignity and personal value, to strengthen the respect for human rights and fundamental freedoms of others, and which take account of the age, as well as the need to facilitate the reintegration in the society, and the

⁵ Rules of the United Nations on the administration of justice for minors (Rules in Beijing), recommended for adoption by the VII Congress of the United Nations for the prevention of crime and the treatment of criminals being held in Milan in the period 26 aug.-6 septum. (1985) and adopted by the general assembly in its resolution 40/33 of 29 November (1985).

⁶ Adopted by the United Nations General Assembly on 29 November (1989).entered invigoare on 2 September (1990). Romania has ratified the Convention by the Law no. 18/1990, which shall be published in the Official Gazette of Romania, Part I, No 109 of 28 September (1990) and republished in the Official Gazette of Romania, Part I, No 314 of 13 June (2001).

assumption of a constructive role in society⁷.

The Convention does not lay down minimum age expressly to the minors, which may be liable to leave, but the UN Committee, of course, understood by the Member-side, through the criticism brought to the courts in which the minimum age of penal liability is 12 years or less, that it is necessary to establish a minimum age below which children should be presumed that do not have the ability to break the penal law⁸. The importance of the way in which will be applied to the Justice for Minors is clear from Article 3(1) of this Convention: in all actions relating to children, undertaken by the institutions of social assistance, public or private, courts of law, administrative authorities or legislative bodies, the child's interests will prevail.

The directives of juvenile justice approach is to be found and in Article 14(4) The International Pact on Civil and Political Rights, as well as Rule no. 1 of the UN rules shall take into account the protection of physical and mental capacities of the child, as well as the detailed rules for the rehabilitation of the body, with positive effects on the promotion and respect for the rights of children.

The systems of justice should promote the rights and safety of children, to protect physical and mental condition of minors and to take into account the need to rehabilitate, such guarantees as provided for in Article 14(4) of the International Pact on Civil and Political Rights, as well as Rule no. 1 of the UN rules with regard to the protection of minors deprived of freedom.

A legally binding instrument by a high recognition is the principles of the United Nations for the Prevention of juvenile delinquency rate⁹ or "the principles of Riyadh", under which the child should become promoter of responsibility and active involvement in society and not an object of social control.

The implementation of the document shall be made in agreement with the national legal systems, which it focuses on the welfare of young persons. In this respect it is recommended that the Member developing methods social construction to ensure opportunities, in the field of education, support the basic standards for the protection of the personal development of minors, in particular those which are dangerous or has a particular risk social and they need support in particular and protective. Another element concerned is rethinking of strategies for prevention of juvenile delinquency rate and the reduction of motivation, needs and/or the conditions for committing criminal offenses, through the involvement of specialist in the field of crime, sociology, infantile of criminal law¹⁰.

⁷ Ibidem, art.40, alin.(1).

⁸ Ibidem, art.40, alin.(3), lit. a).

⁹ Adopted by Resolution 45/112 of 14 December (1990) on the VIII Congress of used the document contains recommendations for interventions at different levels of interest of young people, for the purpose of combating the developments, unwanted behavior.

¹⁰ Adopted by Resolution 45/113 of 14 December (1990). Lays down the minimum standards accepted by the United Nations Organization for the protection of minors deprived of freedom in any form, in accordance with the fundamental human rights and freedoms.

Another challenge within the framework of the international legal instruments are the rules of the United Nations for the protection of minors deprived of freedom. This document is the universal character defining the circumstances in which the children may be deprived of freedom, emphasizing the idea that the deprivation of liberty of a minor must be an extreme measure and for the minimum period necessary and should be limited to exceptional cases¹¹.

The rules of the United Nations for the protection of minors deprived of freedom are designed to counteract the negative effects of depriving of freedom while ensuring respect for the rights of the child and represents a comprehensive framework, accepted international, in which countries may regulate the deprivation of liberty of all persons under the age of 18 years. The rules shall apply to any person of up to 18 years, irrespective of the process or of the hearing. As a result, it has the advantage that it shall be applied to all persons aged up to 18 years, which are deprived of freedom, without reference to the national minority untying of age, and without depends on the jurisdiction of the special procedures (Andronache 2014.)

In these circumstances, the system of the justice for minors is marked by the attempts to build and experience new models for the prevention of juvenile delinquency rate, through the progressive reduction of the role of the classic retributive justice and increase the role played by the Community in the management of the Justice for Minors and in the activities of social and reinsertion in the society of minor delinquents (Rădulescu & Baciu 2003).

The stringent as a component of the infantile crime becomes a concern for the European judicial system, especially regarding the practicability, these guidelines to the Committee of Ministers of the Council of Europe¹² on justice in the interests of the child seeks to adapt their systems and seeks to implement the legal systems and make a more pragmatic adaptation to the rights, interests and needs of children.

This form shall invite the Member States of the EU, to ensure the promotion of legal policies in the interests of the minors among all the authorities responsible for the protection of the rights of children in legal proceedings.

The guidance set out in the document have deep foundations in their implementation, and are to be found in the form of principles of juvenile justice: participation, as well as the child's interest, dignity, protection against discrimination, the rule of law. These fundamental principles generates a legal framework for action with a view to ensuring justice in the interests of the child, supported and the case law of the European Court of Human Rights.

Therefore, the Council of Europe shall be deemed to be responsible for the elaboration and implementation of new methods and strategies to treat children in the framework of judicial what might violate the rights and freedoms. The response

¹¹ Ibidem.

¹² Adopted by the Committee of Ministers of the Council of Europe on 17 November (2010).

of the Council of Europe has materialized through the adoption of Resolution no. 2 on justice in the interests of the child within the 28-of the European Conference of Ministers of Justice of 25 October 2007, as a result of which four bodies in this area have proposed the setting up of the judicial systems to meet the specific needs of the children and to promote the best interests.

In this respect, it is formulated as a transversal and integrated approach bringing intergovernmental committees in the field of civil law and administrative (European Committee for judicial cooperation - CDCJ), criminal law (European Committee for criminal matters - CDPC), human rights in general (the Management Committee for Human Rights - CDDH), as well as the European Commission for efficient Justice (CEPEJ)¹³.

Processing justice by ensuring the child's interest and a good governance, ensure legal instrument, the guidelines of the Committee of Ministers of the Council of Europe, a consistent with the program "the construction of a Europe with and for children", as the main pillar of the strategy of the Council of Europe regarding the rights of the child for the period 2009-2011.

The intergovernmental cooperation continued through high-level conferences of the Council of Europe, which took place under the auspices of the Swedish presidency of the Committee of Ministers, "The creation of Europe with and for children - Toward a strategy for the period 2009- 2011" (Stockholm, 8-10 September 2008) and the Spanish presidency of the Committee of Ministers, "Protection of children in the European judicial systems" (Toledo, 12-13 March 2009)¹⁴.

The Council of Europe organized a direct consultation with young people and children in 2010, with the aim of ensuring the effective participation of young people in the process of juvenile justice, as well as the recognition of the right of children to listen, to benefit from an independent representation to ensure that the interests of the individual.

This guidance is based on international standards, European and national, where the best interests of the child represents the wire of the elder of the guidelines in question, whereas they shall take into account the essential principles laid down by the European Court for Human Rights in Strasbourg and the case-law of the Court, as well as the relevance and the United Nations Convention on the rights of the child¹⁵.

3. The Minors and criminal liability

Considered a priority area for the Millennium III, the youthful crime becomes a problem both national and international, because the social danger of

¹³ The guidelines to the Committee of Ministers of the Council of Europe on justice in the interests of the child, Council of Europe Publishing Strasbourg Cedex France, (2012), p.38.

¹⁴ Ibidem, p. 39.

¹⁵ Ibidem, p. 42.

the deeds committed by the minors is amplified by youth and their exuberant but especially by virtue of the possibilities of relapse of offense, can cause serious long-term consequences, irreparable damage. (Andronache 2014) Knowledge of the intelligence unit and the treatment of the phenomenon of youthful draws from the various means of approach and its settlement, with the watch on the development and social stability.

The new Penal Code of Romania¹⁶ provides in Article 114(3), „the minor who has reached the age of 16 years Reply criminal law according to the law”, which confirms with clarity when a child can be responsible for committing an illegal deeds.

The quality of the subject of the infringement involves the suitability of the person to understand and assume the obligations of conduct laid down by the rules of criminal law, as well as the ability to handle and direct consciously acts of conduct in relation to the existing ones. (Rotari 2010)

The imposition of an age limit in order to prosecute the minor's criminal investigations is determined by specialists in the field of psychology, only at a certain age, in our case, 16 years old, and that a minor may have discernment in respect of the deed and the action taken on it. All new Penal Code article 114(2), provides for the possibility of the penal liability of young people aged between 13 and 16 years, if it is found that the deed was committed with care: the minor aged between 13 and 16 years of criminal responsible only if it is proved that he committed deeds with judgment. In this context, the penal law we confirm the two limits of age: 13 and 16 years of age, being taken into account in the individualization of liability and criminal penalty.

Treating the problem from the point of view of judicial practice, we find in the case of prosecutions requirement to mention, in particular, the age of the precise definition of the minor, considering that it has reached the age that starting with next day delivery. In the case of minors penal liability dressed two dimensions on its consequences according to article 115 of the NCP: educational measure of freedom and the measure involving deprivation of liberty:

"(1) In relation to the minor which, at the time the criminal offense was committed, aged between 13 and 18 years take an educational measure of freedom.

(2) In relation to the minor referred to in paragraph (1) may take an educational measure involving deprivation of liberty in the following cases:

a) If a more committed an offense for which he has applied an educational measure has been executed before committing the offense for which it is judged;

(b) When the penalty provided for by law for the offense committed is imprisonment for 7 years or more times life detention".

¹⁶ The new Penal Code, adopted on the basis of the Law 187/2012 for the implementation of the Law no. 286/2009, published in the M. Oh. Part I, No 757 of 12 November (2012).

From the content of the article on the consequences of the penal liability, we notice that the legislator focuses on the educational measure, education, having a primary role in the 'delinquent reorientation of the child through a psycho-pedagogical remarkable influence. So that the attention is directed toward the prevention and combating of the facts and not toward the repair of injury, where the extent of penalties involving deprivation of liberty (jail) to be "ultimo ratio".

Treated as criminal penalties, educational measures are established for the minors transgressors, which affects their re-education through surveillance, training, education or vocational training and through their cultivation in the consciousness of values and behaviors that involve the respect the order of criminal law. (Andronache 2014) Submission of the minor by educational measures supported by a professional training, cultural and moral and civic means creating a new human profile with a positive opening to the socio-vocational integration of the overwrought state youthful body.

Unlike the punishments, where the nature of the binding character is predominant, educational measures are practically free of content, their character being predominantly projective. As a result of taking and subjecting a minor to the educational measures, it does not support any criminal consequences of penal order in the future, the convictions pronounced against him for acts committed previously does not turn into penal antecedents¹⁷.

The penalties applied to minors transgressors must provide opportunities for reeducation and reintegration into the Community, materialized by the free educational measures such as: the probationary civic training; supervision; the deposit at the end of the week; assisting the daily, with the role of the minor 'delinquent to acknowledge the deed, its effects on him, as well as the community of which it is part of the IT professional form, and finally to be prepared by the awareness of the shares in the company.

The Probationary civic training, as an educational freedom, according to Article 118(1) of the NCP, assumed on the part of the minor's participation is essential to a program with a duration of not more than two months, with a view to understanding the legal and social consequences which is exposed in case of criminal offenses and to empower your with regard to the behavior or the future (Durnescu 2008).

The Criminal Code refers expressly to the contents of this educational measures, which form an integral part consists in the determination of the minor to make the danger behave itself, the consequences of their deeds. This educational measure may be applied to minors who commit crimes, whose social threat is not obvious to the adolescents of this age (Balica 2009).

In the educational quality of measure the freedom of lies and supervision in Article 119 of the CPC, which ensures the minor guidance for

¹⁷ Idem.

participation in school courses/training through a program well established for a period of between two and four months¹⁸.

The deposit at the end of the week, another measure of freedom educational binding on the minor not to leave his residence at the end of the week, for a period of between 4 and 12 weeks, with the exception of the periods imposed by the court to carry out certain programs.

Assisting the daily subsistence allowance shall be noted by the observance of a program carried out for a period of between 3 and 6 months, well established, materialized by a clockwise, a description of the conditions of employment and of course, the prohibitions imposed the minor.

In the co-ordination of Article 118(2), Article 119, Article 120(2), Article 121(2), it is found that the organization, ensuring the participation and supervision of the minor is located under the coordination of the probation service, which works with the purpose to help the judiciary (judges and prosecutors) to take the best decision when formulating a sentence.

The institution of probation is introduced in Romania as a result of the conduct of specific activities, endeavoring to maintain into the Community of certain categories of criminals, in particular minors or people who committed less serious crimes, in order to ensure efficient social integration and disposal of negative effects of the integration in the penitentiary environment. It should be noted that the institution took birth not only on grounds of an economic nature, but also of the need to implement the recommendations of the European Communities on the development of alternative sanctions to the punishment with prison, at the level of the Romanian legal system and compliance with the provisions of the above international documents signed: the European Convention of Human Rights and the European Convention for the Prevention of Torture. (Balica 2009) At the same time, the institution of probation represents the result of recommendations made by the Council of Europe at the international level, which underline the correlation between the need for punishment and an offense¹⁹.

The international influence facing toward the observance of human rights and fundamental freedoms, has resulted in an evolution of the institution of probation in the Romanian Space, starting from the idea need to develop a system of alternative measures to sanction the offenders, which measures make it possible to freeing the penitentiary system and, at the same time, to permit the rehabilitation of social and legal persons who have committed crimes, decreasing the risk of committing crimes and the prevention of criminal offenses, for us and for the victims of the protection of the public/increase of the degree of social security,

¹⁸ Recommandation n° R (92) 16 du Comité des Ministres aux États membres relative aux règles européennes sur les sanctions et mesures appliquées dans la communauté.

¹⁹ The Charter of Fundamental Rights of the European Union, December 7, (2000), Nice, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:303:0001:0016>.

repair the injury to the Community. (Dumitrașcu & Schiaucu 2008)

The current legal framework imposes a criminal justice management from the premise that the rehabilitation of minors must be carried out not only in the inside and outside of the justice system, as well as outside the justice system, and more specifically in the framework of the community services, which offers a variety of scientific strategies and processes that are able to support the process of rehabilitation and social reintegration of minors delinquents.

Thus, according to article 122(2),(3) of the NCP, The Probation Service has the powers the supervision of the implementation of the obligations imposed by the court, the matter of changes with respect to its obligations imposed by the court and the way in which the conditions on the implementation of the measures for educational freedom.

We give a special attention to the obligations of the minor shall be imposed by the court, according to article 122(1): participation in courses of training or training, attendance at some programs of advice, social reintegration, territorial compliance with the limit laid down, the submission of control measures, treatment/medical care where circumstances so require, because it gives us the beneficial for combating and prevention of juvenile delinquency rate.

As a matter of fact, we find that in the Romanian criminal law, educational measures shall be regarded as the consequences of the concrete penal liability, being put into effect only when the minor has committed a crime, unlike the French system in which they may be taken without to establish the penal liability.

Forms of stress with an educational and measures involving deprivation of liberty, as well as admission into an Educational Center and admission in a place of detention, used by the reporting of personal liability for minor infringement.

In accordance with Article 125(1) of the NCP, admitting in an Educational Center consists in placing the minor in a school for the rehabilitation of the boarding type, where it is satisfied that special supervision which cannot be achieved in freedom and where juvenile delinquent will follow a training program education and training, as well as according to his skills and programs of social reintegration.

These institutions are expressly intended for minors delinquents, being punished for a period of between 1 and 3 years, this period may be extended if the minor committed a new offense is prosecuted for an offense committed before competition, but must not exceed the maximum laid down by law, or may be replaced by a measure admission in a detention center²⁰. The Court also has the possibility of replacing the sanction of admitting in an Educational Center after the execution of at least half of the duration of the admission if it is found that during admission, the minor has shown interest for the acquisition of professional knowledge and has demonstrated progress in the social reintegration. This measure may be replaced by the educational measure of

²⁰ New Penal Code, art.125, alin.(3).

assisting daily for a period equal to the duration of the non-performance of the sanction, or not more than 6 months, or the release from the Educational Center, if the person has reached the age of 18 years.

By replacing or liberating the minor, the court request of the child in accordance with the obligations laid down in Article 122, such: it does not communicate with the victim, or his family, to attend programs of advice, social reintegration and to demonstrate the interest in the training and training, until the admission duration of the measure.

In the case of systematic disrespect for the measures which contain the tightness of an educational stage by a minor, or a failure to comply with bad faith in the conditions of non-performance of the sanction imposed, or committing new offenses, the court, provided by Article 125(7)(b), the subject is admitted in a place of detention.

Being admitted in a place of detention, according to article 126(1) of the NCP requires the installation of the minor within an institution with a view to recovering it by an intensive program of surveillance, social reintegration, training and preparation of the school. The period during which the overwrought state youthful he has such a measure is between 2 and 5 years, except in the case when the penalty provided for by law for the offense committed is prison sentence of 20 years or more times detention for life, when admitting take over a period between 5 and 15 years²¹.

Under the aspect of the criminal by the minor crimes, the courts are obliged to investigate the facts, the circumstances which led to the offense by and in particular giving causes of adverse effects on the child's relationship with the judicial-social standard.

Always being obliged to investigate the conditions under which he lived and was educated minor-criminal, causes and conditions which have contributed to the concrete perpetration of the offense, the court must ascertain the degree of awareness of the deed which has committed a minor, but also its ability to be responsible in relation to the offense initiated.

The responsibility, regarded as an element which characterizes the person as the subject of a criminal offense, the re- shows of the condition of the psycho-physical state of the person who has the ability to understand the character, to realize the value of their consequences and, as well as the ability to determine and direct in normal manner (Borodac 1994).

Considering that a minor doesn't care, current national legislation in criminal matters, the principle of responsibility in relation to the minor, in which criminal minority group comprises 13 to 18 years old. The minor between 14 and 18 years of age is considered responsible for his actions, if at the time of the commitment of the deed had a level of moral and intellectual development to allow an understanding of the illegal character of his conduct (Rotari 2010).

²¹ New Penal Code, art.126, alin.(2).

The minor for which proof is provided that does not have this degree of ripeness measures may be taken only with an educational and care. In other words, I, the cloud of between 14 and 18 years receive a relative presumption of irresponsibility, which can be removed by proving his moral maturity and capacity of understanding of illegal character of the deed was committed (Rotari 2004).

In the case of the admission in a place of detention, in accordance with Article 126, alin.(2), the period of application is between 2 and 5 years, except for the case in which the penalty provided for by law for the offense committed is prison sentence of 20 years or more times for life detention, when admitting take over a period between 5 and 15 year. The seriousness of the facts as well as the causes of the aggravating and extenuating circumstances and influence the decision the choice of the educative measure, producing effects within the limits provided by the law for each measure.

In Romania, the criminal research was found in the other Member States of the EU, obviously, that the minors who have been subjected to a measure of reeducation in a specialized are much less exposed to commit a new offense after the expiry of the educative measure than the minors who executed a penalty involving deprivation of liberty in the regime on the detention center (Rotaru 2010).

The current changes at the level of the juvenile justice system, provide opportunities for the creation of a healthy environment of intellectual development, social, psychological and emotional for children and adolescents, and at the same time to build and consolidate a proactive culture involved by the European Communities in respect to the rights and obligations of the citizen at the level of the entire society (Rusan et al. 2010).

The educational options and treatment applicable to criminals being from the point of view of the new regulations at national and international level represents a thoroughly support in preventing and combating criminal offenses committed by minors through actions undertaken and supported in an efficient manner by all stakeholders: the institution of probation, social services, police, teachers, students, parents, reliable partners, proactive defense interests and the rights of the child.

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