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## **28th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE**

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**“Emerging issues of access to justice for  
vulnerable groups, in particular:  
- migrants and asylum seekers;  
- children, including children perpetrators of crime”**

**REFORM OF THE JUVENILE JUSTICE SYSTEM IN  
“THE FORMER YUGOSLAV REPUBLIC OF  
MACEDONIA”**

**Report presented by the  
Minister of Justice  
of “the former Yugoslav Republic of  
Macedonia”**

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## REFORM OF THE JUVENILE JUSTICE SYSTEM IN THE REPUBLIC OF MACEDONIA

### CODIFIED LEGISLATION ON JUVENILE JUSTICE

In accordance with the strategic determination of the Government of the Republic of Macedonia concerning the reform of juvenile justice, the Assembly of the Republic of Macedonia, on 4 July 2007, adopted the Law on juvenile justice. The Law comprises operational standards established in ratified international conventions and instruments on children's rights and establishes a legal and institutional framework for a new standardised and codified system of juvenile justice in the Republic of Macedonia. The aim of the law is to remove juveniles from the system - legal and procedural - of treatment of adult persons who have committed criminal acts.

The Law is based on the following principles:

- the protection of a juvenile and his/her rights;
- socialisation and assistance in the process of treating the juvenile;
- reparation of damage or the principle of restorative justice; and
- prevention of juvenile delinquency.

According to the provisions of the United Nations Convention on the Rights of the Child, the Law incorporates several principles, the most important of which are: the principle of legality; the right to respect of all rights of juveniles established in the Convention on the Rights of the Child and other international instruments; giving priority to preventive, protective and correctional measures and enforcement of sanctions which consist of deprivation of liberty in exceptional cases if the goal cannot be achieved otherwise; the principle of the competent authorities not initiating court proceedings in order to avoid their damaging effects on a juvenile, unless the personality of the juvenile and the circumstances of the case require the initiation of such proceedings; the right to court protection by a competent court against decisions rendered in out of court procedures, and the right to an impartial trial.

There is a **new procedure** for dealing with children at risk and minors who have committed acts which are defined according to the Law as criminal acts and misdemeanours.

According to the provisions of the Law, a child at risk is a minor who, at the time of committing the criminal act or misdemeanour, is under 14 years of age, and measures of assistance and protection are undertaken in respect of such a minor. The measures involve the areas of education, health, social, family and other forms of protection.

It is important to state that there are measures which envisage that:

- in specialised court departments established in the Basic Courts for minor criminal offenders with an enlarged competence to carry out expert activities, the president of the court appoints at least one social worker, a pedagogue and a psychologist from a list that the Centre for Social Care has previously provided;
- judges for juveniles, public prosecutors, lawyers and the competent officials from the Ministry of Interior follow specialised training of four to ten days related to juvenile delinquency in the country and abroad;
- according to the provisions of the Law on Criminal Procedure, during the period of detention and deprivation of liberty of a minor, the competent officials in the Ministry of Interior accommodate the minor in a separate cell intended for temporary detention.

**A novelty of the Law** is the elaboration of the following principles of protection of the juvenile as an injured party or as a witness in the course of the criminal proceedings:

- the priority interest to protect the minor;
- protection of a minor who has suffered damage or is a witness; and
- compensation of a minor who is a victim of criminal acts of violence and other acts of individual or group violence, financed from a compensation fund.

The fund is created from 2% of the monies which are collected from fines received by the courts for criminal actions or misdemeanours collected in the previous year.

The implementation of these standards in the Law on the protection of a minor witness or victim stems from the need to implement the provisions of the Optional Protocol on the sale of children, child prostitution and child pornography, which was ratified by the Republic of Macedonia in 2004, and the provisions of article 118 of the Constitution of the Republic of Macedonia, which is a part of the internal legal system.

The Law envisages the establishment of a **State Council and municipality councils for prevention**. The State Council adopts a National Strategy for the Prevention of Juvenile Delinquency, initiates wider promotion of juveniles' rights, initiates discussions on family health issues, healthcare, protection against drugs, alcohol and other addictions, problems of education and upbringing, for the media and other factors which influence the prevention of juvenile delinquency, and initiates research and studies on the problems of juvenile delinquency.

The State Council consists of 15 members elected by the Parliament of the Republic of Macedonia with a five year mandate with a right to be re-elected. In addition,

- seven members of the State Council are proposed by the Ministry of Justice, Ministry of Labour and Social Policy, Ministry of Internal Affairs, Public Prosecution Office, Supreme Court and the Bar Association of the Republic of Macedonia;
- eight members of the State Council are elected by a public announcement from the area of prominent specialists and experts who work on the protection of juveniles' interests, one of them being a representative of NGO's for child protection.

## **DRAFTING, IMPLEMENTATION AND ALIGNMENT OF THE LAW TO EUROPEAN STANDARDS**

The working group for the preparation of the Law was comprised of experts, public prosecutors, lawyers, representatives of the Ministry of Labour and Social Protection and the Ombudsman. The UNICEF Office of the Republic of Macedonia supported the process of preparation of the Law on Juvenile Justice.

Bearing in mind that the Law will be applied from 1 September 2008, the Government of the Republic of Macedonia, in co-operation with international organisations, will give the necessary financial and other support to implement the Law in practice.

The changes and amendments are in a parliamentary procedure for adoption of the amendments and addenda of the Criminal Code of the Republic of Macedonia. The adoption of these amendments and addenda will contribute to the conformity of the Republic of Macedonia with European standards, which is a vital condition of the European integration processes in our country. The **amendments and addenda** suggest that there should be an **alteration of the definition of the terms: "victim of a criminal action" and "child pornography"**.

The term **"victim of a criminal action"** refers to any person who suffers damage, including physical and mental injuries, emotional suffering, material losses and other injuries or breaches of basic liberties and rights as consequences of the criminal acts committed. The term **"child-victim of a criminal act"** refers to a minor under eighteen years of age.

The term “**child pornography**” defines pornographic material which visually presents obvious sexual activities with a minor, or obvious activities with a person that looks like a minor, or real photos that depict obvious sexual activities with a minor.

Another novelty is the introduction of a new criminal act: “**Production and distribution of child pornography through a computer system**”, which sanctions the production of child pornography intended for distribution or transferring or offering in some other way and making it accessible via computing systems. A qualified form of this criminal act consists of supplying child pornography through computer systems or a medium which serves for storing computer data, with an intention to show it to others or for distribution.



