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CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

Questionnaire on principles of public prosecution as regards juvenile justice

Background information

Juvenile justice is one of the most challenging and complex field of action for prosecutors. Today the functions of juvenile prosecutors go beyond prosecution and proceedings as they should cope with other activities such as working with civic and social groups, school and the community itself to prevent juvenile crime.

This questionnaire addresses the prosecution of offences where a child is victim, witness or perpetrator. It primarily focuses on juveniles in the criminal justice system. Additionally it touches upon the place of children in civil cases and administrative proceedings.

The aim of this questionnaire is to find out the best practices and standards of the role of prosecutors in the field of juvenile justice in the Council of Europe member states. The replies to it will serve as a basis for the drafting of the Opinion N°5 of the Consultative Council of European Prosecutors on “the principles of public prosecution as regards juvenile justice”.

This survey is aimed at the role of public prosecutors, therefore it is up to the members of the CCPE to reply to it in consultation, if need be, with the specialists in juvenile justice in their countries. This exercise is a separate one from the survey on juvenile justice organised in 2006 by the CDPC. Nevertheless, the part of the questionnaire “any other remarks and peculiarities” should contain information regarding major reforms that have been done or are under way concerning juvenile justice in the criminal field and the protection of juveniles in danger which may involve important changes since 2006 as to the role of prosecutors in this field.

Country: Liechtenstein

I. Criminal justice system:

1. In your country, do public prosecutors have the duty to apply a general policy concerning juvenile justice? To do so, do they follow specific guidelines? (If yes, please specify. Answers to this question should include, inter alia, the prevailing character of the policy between more repressive or more educative as well as the minimum age of criminal responsibility and the minimum age under which it is not permissible to imprison a child.)

The minimum age for criminal responsibility is fourteen.

No specific guidelines are provided for Juveniles, but a special procedure is provided for proceedings and criminal trials against juvenile defendants. The legal basis is the so called Juvenile Court Act. This Act focuses on the idea of education and rehabilitation of young offenders rather than that of their punishment and retaliation. One of the goals is to limit the time of deprivation of liberty and to implement alternative (diversion) measures. The Act is applied to offenders who are between fourteen and eighteen years of age at the time of their offence. The young offenders are to be prosecuted only if they are mature enough to realize their wrong doing and are capable to act appropriate.

Hence the Act is partly different from the procedure concerning adult defendants:

- particular attention is paid to the personality of the young defendant;*
- one of the aims is also to re-educate him/her;*
- the social service plays a relevant role;*
- the provisional arrest is a sort of ultima ratio;*
- preventive custody is differently regulated and specific rules are provided for precautionary measures;*
- the young offenders are prosecuted for the same types of offences like the adults but with different consequences. Imprisonment is the last measure and can only be imposed by the judge; Prison time is kept between six months and fifteen years.*

If the conditions for detaining on remand are fulfilled, but the purpose of the detention can be attained through less interfering measure, the court renders, if the accused consents hereto, such a decision in the place of detention. E.g. the court can decide that the accused shall reside in a suitable home or institution. Furthermore, when the accused is 14-18 years old the Act establishes maximum detaining periods (depending on the seriousness of the crime), that are significantly lower than those that apply to adult offender.

If the Police detain a juvenile, the social services and the parents have to be notified. Also, a representative from the social services may be present during a police interrogation.

In cases of violent crime or other kinds of serious crime, the social services have to draw up a plan on how to give the juvenile the support necessary and prevent the juvenile from committing crimes in the future.

2. Does your country's criminal justice system provide for specialized public prosecutors for juveniles, entrusted with the implementation of specific laws and procedures? Do public prosecutors form, together with specialized judges for juveniles, a specialized entity within the court where, for instance, a general policy for juvenile justice is defined or discussed? Please give details.

In Liechtenstein, there are no specialized public prosecutors for juvenile offenders and for the protection of juvenile victims. All prosecutors have to deal with these cases. But there are trainings open for all prosecutors, organized by the prosecution office together with the court and other players in this field; but there is – as mentioned above- a special juvenile court-system and there are juvenile judges.

3. If yes, how are the public prosecutors educated, selected and trained?

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4. As regards victims of offences, can the public prosecutors apply specific procedures and means, in particular to collect testimonies? Moreover, are they free to choose ways of prosecuting or are their powers sometimes limited by the law, for instance as regards the choice of alternatives to prosecution or of the prison sentences requested for juveniles already condemned or second offenders? Does the law specify according to the juvenile concerned between these prosecution choices, for prison, for some types of sentences? If yes, please specify.

See also reply to 7.

The investigating magistrate may examine young witnesses who are the victims of crimes in a special way provided by law. For these hearings especially equipped court-rooms - designed to make the child feel more at ease - are used. At the actual hearing only the judge and an expert(e.g. psychologists, infantile neuropsychiatrists etc.) are present. The public prosecutor and the defense watch the hearing in a different room by video-conference. They may ask questions only via the judge or the expert. The child does not have to testify in front of the defendant. These methods are always used with children who are victims of sexual abuse.

There is also a specialized criminal investigation unit within the police. In minor cases the public prosecutor may drop the case. He may also impose a period of probation for the young offender or ask the court to suspend imposing a sanction after conviction for a period of probation for up to three years. The positive result of the probation extinguishes the criminal offence.

One possibility in minor cases against youth offenders is to impose a fine or - as already mentioned - to drop the charges.

These measures can only be imposed if the offender has admitted his responsibility. Furthermore, these sanctions as a general rule cannot be used in cases concerning violent crime e.g. assault, robbery.

Sometimes a decision to drop the charges will be conditioned by the offender signing a contract in which he or she commits to paying compensation to the victim and working some time for the community. This type of sanction is directed at young offenders who have not yet displayed a more permanent crime pattern and who are convicted of minor crimes, such as theft or property damage.

The youth contract is drafted by the social services in cooperation with the offender and his or hers parents and has to be approved by the prosecution and/or the court. In such cases suspended sentences are also used, sometimes conditioned by community service.

5. What is the specific role of public prosecutors in custody before a court hearing, during the hearing and in the detention after conviction, in cases involving juveniles?

Because of the special risks of any deprivation of liberty brings about for juveniles prosecutors have a special task to keep these measures as short as possible. 14-18 year old juveniles are only sentenced to imprisonment in serious cases or in case of repeat offences. In most cases one of the special youth sanctions will be imposed.

6. What is the role played by public prosecutors in the partnership with local social and administrative agencies working in the field of juvenile delinquency? For instance, are public prosecutors involved in the choices regarding the city policies and do they participate in instances where these partners sit together with elected persons (such as city mayors), schools, teachers, etc.?

In Liechtenstein, prosecutors are part of the local social network. They take part in conferences about social burning points and sometimes initiate measures to prevent young people from becoming criminals or to suppress severe criminality.

7. In practice, what is the role played by public prosecutors in the coordination and cooperation of the main actors involved in the investigation process (such as the child protection services, police, prosecutors, courts, the medical profession, others)? Please specify.

In the Liechtenstein system, there is an investigating magistrate and the public prosecutor has only indirect control of the criminal investigation.

But the prosecutor may promote and take advantage of relationships with social services, schools and any other institution, to understand in depth the personal and family situation of the young offender and to take appropriate decisions at the end of the investigation and other possible initiatives. In any case the prosecutor will inform the relevant (youth and social) authorities. The prosecutor has to apply for pre-trial arrest or detention and the investigating magistrate has to provide a defense and victim lawyer. If an inspection of the body of the victim is needed, the prosecutor/judge has to take care that this is done by an experienced doctor and that the human rights of the victim are respected. Generally, prosecutors will ask a judge to interview the victim; if possible by video-technique and in the presence of an expert to prevent a repetition of the interrogation in the trial phase of the proceedings.

The police have to fully inform all involved persons about their rights and duties, including civil compensation. Also prosecutors and judges have to take this into account. During the court proceedings, judges have to make sure that the offender and the victim have no contact outside and, if appropriate, even inside the court-room.

II. Civil justice system and administrative proceedings:

8. *What is the role of public prosecutors as regards access to justice for juveniles? Please specify between juveniles in danger as regards their education, the living conditions, etc., for whom a judicial protection is needed, and juveniles who are victims of offences and who claim for compensation.*

None

9. *In your country, are there situations affecting juveniles where public prosecutors can initiate ex-officio investigations? If yes, please specify.*

According to the principle of legality laid down in Liechtenstein law, ex-officio investigations have to be initiated by the prosecution service if there is a suspicion that a crime has been committed. This suspicion can arise from complaints by a victim or any other person or from media reports.

10. What is the specific role of public prosecutors in applying protective and educative measures towards juveniles? Within the framework, are public

prosecutors in relations with other instances or bodies such as, for instance, community homes, schools and how are their contacts with these bodies organized (designated correspondents, free telephone line, etc)?

None

11. What is the role of public prosecutors in child abduction cases by one parent and other family related cases?

Child abduction is a criminal offence pursuant to § 194 of the Criminal Code. Depending on the facts of the cases the prosecutor is responsible for prosecuting the abductor. Outside the criminal law the Public Prosecutor has no competence in these cases.

See also reply to 9.

12. What is the role of prosecutor in cases such as placement of juveniles in the name of their self protection or placement of children pending expulsion or any other case?

The public prosecutor has no direct powers to order measures such as the placement of juveniles in the name of their self protection, but can take initiatives in their interest in front of the juvenile court. In case of urgency, when a serious danger threatens the child, administrative authorities (Mayor, police, social services) can adopt provisional measures (also removing the child from his/her family).

III. Any other remarks and peculiarities which could be indicated, according to you, and which concern the role of public prosecutors in your country vis-à-vis juvenile justice.