

## Country: SLOVENIA

### 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.)**

*In Slovenia there are no specific guidelines for dealing with criminal cases involving juveniles as perpetrators, victims or witnesses of crime. On the other hand we have general policy concerning juvenile justice. First of all the state prosecutors in our country have the obligation to deal with this type of cases applying the principle of priority. They have to work on these cases without undue delay. The character of our criminal proceedings is not only criminal repression. We primarily try to find out relevant circumstances in which the offence was done and establishing the personality and living conditions of juvenile perpetrators. One of the most important purposes is also to choose the right criminal sanction.*

*The minimal age regarding criminal responsibility in Slovenia is 14 years, but we have the division into younger juveniles (years between 14 and 16) and older juveniles (years between 16 and 18). The prison sentence is applicable only for older juveniles and only if prescribed criminal sanction for the offence is 5 or more years of imprisonment.*

- 2. Does your country's criminal justice system provide for specialised 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 our criminal justice system we have specialized public prosecutors for juveniles. In bigger state prosecutors offices we have special departments dealing with criminal cases against juveniles.*

*Slovenian Criminal Procedure Act has special chapter dealing with proceedings against juvenile perpetrators. In county courts, higher courts and in the Supreme Court there are special departments for juvenile crimes and special "juvenile" panels of judges. In district courts there are specialized judges for juvenile crimes.*

*Slovenian state prosecutors are not members of any such specialized entity within the court, but they have the possibility to influence general policy in this field, especially with the proposals of sanctions applied against juveniles. State prosecutor is the only prosecutor against juveniles in our criminal justice system and is at the same time party of procedure, with the possibility to file an appeal against court decisions. Through use of this legal remedy we try to influence the court decisions following our criteria which were established through the jurisprudence.*

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

*Slovenian state prosecutors have common education as a prosecutor, which is upgraded with special education, provided by programs of specialization in different Slovenian universities. Number of prosecutors has passed this program; the others are experienced prosecutors with quite long practice in this area. Every year there are organized special seminars in the framework of our institution. On other side our prosecutors attend different conferences and seminars organized by Non-governmental organizations, ministries, etc.*

**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.**

*As regards the participation of juvenile victims in the procedures, we have special rules in our Criminal Procedure Act. According to these rules juvenile victims of:*

- a) criminal offences against sexual inviolability,*
- b) criminal offence of neglect of minors and cruel treatment or*
- c) criminal offence of trafficking in human beings,*

*shall have an attorney to care for his rights, particularly in connection with the protection of his integrity during examination before the court and during the assertion of a claim for indemnification. To juvenile victims without an attorney the court shall assign ex officio an attorney from among the members of the Bar.*

*The basic principle in our criminal justice system is principle of legality. In the field of juvenile crimes, this principle is to a much greater extent substituted with the principle of opportunity. With juvenile crimes, prosecutors have the possibility not to prosecute the case even if all the elements of crime are fulfilled. They have the right to freely estimate if the proceedings against juvenile would be appropriate or not. When they take this decision, they have to examine the nature of the offence, the circumstances in which it was committed and past conduct of juvenile perpetrator with his personal traits.*

*Our criminal justice system also has some legal instruments which mean the mitigation of basic principle of legality. These instruments are suspended prosecution of a criminal offence and mediation. Especially for juvenile crimes we practice broader approach to use these alternative ways of prosecuting. Even our legislation, which provides the criteria for the use of these possibilities, is different for the juveniles.*

*Our policy concerning the recidivists is to take into account this fact, when the prosecutor estimates the conditions for the use of alternative ways of prosecution and also when he proposes sentence at the end of the trial. We have already mentioned legal conditions for the use of prison sentence when dealing with juvenile perpetrators (answer 1).*

- 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?**

*We have special limits for the custody of juveniles. During the pre-trial procedure, the maximum limit for the custody of juveniles is 3 months. There are also other regulations about custody of juveniles, for example provision that juvenile shall be held in custody separately from adults. Custody for juveniles is more or less exceptional measure in our criminal system.*

- 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 Slovenian juvenile criminal system the role of social agencies (social work centers) is very important. They are involved in all procedures against juveniles and they have the obligation to make report for the prosecutor and judge. They have also the right to be acquainted with the course of proceedings, to make motions during the proceedings and to call attention to facts and evidence of consequence to correct adjudication.*

*Social work centers also organize meetings of the team of experts for juvenile crimes, including police officers and prosecutors. On these meetings the participants discuss problems of individual juveniles that are in criminal procedure.*

*The role of prosecutors in our society has been changed and preventive role is not emphasized any more. Before these legislative changes took place, prosecutors were very active in this field, especially by organizing lectures in schools on the topic of juvenile crimes. During these lectures they presented all the circumstances, which are important for preventing juvenile crimes.*

- 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.**

*We closely cooperate with the police officers who have special knowledge and education in the area of juvenile crimes.*

*We try to propose the right criminal sanction against the juveniles, which are educational measures (reprimands, instructions and prohibitions, supervision by social services, committal to an educational institution, to a juvenile detention centre or to an institution for physically or mentally handicapped youth) and sentencing (fine, imprisonment, revoking of a driving license and banishment from the country). Our proposal is based on the data gathered through pre-trial procedure, with the cooperation of the police, social work centers and occasionally through medical institutions.*

## **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.**

*The role of public prosecutors is that he is judicial body, which can prosecute juvenile crimes.*

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

*Basic principle in our criminal system is that state prosecutors do not only have the right to prosecute, but obligation to prosecute, when act that is prosecuted *ex-officio* has been committed. As we have mentioned earlier, with juvenile crimes there is possibility not to prosecute, but the victim of such crime does not have the right to prosecute instead of prosecutor, as is the case when prosecuting adult perpetrators. The only possibility for the continuation of the procedure is the proposal from the victim to the panel of judges, which then makes the decision, if the procedure will continue without state prosecutor.*

- 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 organised (designated correspondents, free telephone line, etc)?**

*See the answer 6.*

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

*In such cases social work centres have the most important role. They gather participants from the police, prosecutors, school workers, doctors, etc and discuss individual cases and measures which will be applied. There is also a possibility to take the child from the family and place him in special "safe house" or placing him to fostering.*

- 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?**

*State prosecutor has only minor role in such cases. This is more or less question for child care experts.*

- 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.**

*Up to 1 November 2008 our old Criminal Code contained provisions for adults and juveniles. With the new Criminal Code, the provisions regarding juveniles were omitted, because totally new Criminal Code for juveniles is being prepared. But until this new legislature enters into force, the provisions of old Criminal Code sill apply for juveniles.*