

## Czech Republic

### I. Criminal justice system:

1.

In the Czech Republic public prosecution does not have the power to define a general outline of criminal policy in relation to justice for young people.

Public Prosecutor's Office is mainly active in **criminal proceedings** (and in this context in the criminal matters of young people pursuant to Act No 218/2003 Coll. on justice in the matters of young people which came into force on January 1, 2004), and also in the criminal proceedings in the matters of criminal offences committed on children and young people) as the body of public prosecution and the supervisory body in the preparatory criminal proceedings. It is clear from the provisions of section 4 par. 1 letter a) of Act on Public Prosecutor's Office, according to which the Public Prosecutor's Office is the body of public prosecution in criminal proceedings and fulfils other tasks arising from the criminal regulations in the extent, under the conditions and in the way determined by law. Act on Public Prosecutor's Office only contains general regulations. The details of the procedure of prosecutors in criminal proceedings in the above specified matters are stipulated in criminal regulations and in Act No 218/2003 Coll. on justice in the matters of young people.

Details of procedure of public prosecutors in the criminal proceedings in the matters of young people and in the proceedings in the matters of children under fifteen years of age were stipulated by the General prosecutor in the instructions of general nature (these are internal regulations of the Public Prosecutor's Office).

On January 1, 2004, Act No 218/2003 Coll., Act on justice in the matters of young people, came into force (hereinafter referred to as the "Act"). The Act resulted from the efforts to make a new regulation of the way of reaction to criminal activities of young people. Exemption of material and procedural legal regulations concerning young people from general criminal law codes expresses the efforts for a significant change of the general conception of handling young delinquents as it not only emphasises the specific features in the area of punishment for young people. Independent legal regulation is also supported by the fact that in general criminal law regulations it is not possible to include the measures and procedures, mainly of civil law nature, taken against children under fifteen in case an act is committed which otherwise represents a criminal offence, as it does not belong in the general criminal law regulations. Last but not least, it is possible to point out that separate codification of criminal law for young people will strengthen the educational aspect of these principles on which the new codification is based.

The basic feature of the new law is an effort to *stipulate the whole area of handling of all children and adolescents who breach the provisions of criminal law by their behaviour* in a single legal norm. It means that every such case will be heard by a specialised juvenile court which will be able to choose such a measure which will be the most suitable with regard to the age of the adolescent, his/her intellectual and ethical maturity and seriousness of the offence committed by him/her.

The Act stipulates *conditions of responsibility of juvenile offenders for their unlawful acts specified in the criminal law, measures taken as punishment for such unlawful*

*acts, procedures, decisions and implementation of justice in the matters of young people.*

The Act applies to two age groups of *young people* – to *children under fifteen* (who are not responsible for their acts from the point of view of criminal law) who committed an act which is otherwise a criminal offence, and to *juvenile offenders* (i.e. persons who had completed the age of fifteen but had not turned eighteen at the time when the wrong act was committed). Juvenile offenders are already responsible for criminal offences.

The Act stipulates principles of so-called *restorative justice* which emphasises a *balanced and just reaction of society* to a wrong act of a young person and which does not waive its joint responsibility for his/her failure and it infers consequences from it not only for the young person but also for solving of problems of other involved persons and groups connected with the act.

The Act is thus outlined in such a way that it stipulates the differences of the special legal regulation of criminal responsibility of juvenile offenders for committed offences and justice in the matters of young people compared to the general regulation contained in the criminal codes and connected legal regulations. In relation to the general criminal law (criminal law for adults), the regulation of justice in the matters of young people is *lex specialis*.

The bottom age limit when responsibility for criminal acts starts is 15 years of age. Responsibility for criminal acts is constructed as so-called *relative responsibility for criminal acts*. According to this conception of responsibility for criminal acts, juvenile offenders should be responsible for their criminal acts depending on the achieved degree of their moral and intellectual development, not only by simply turning a certain age. Apart from turning the determined age at the moment when a criminal offence is committed, the responsibility for criminal acts constructed in this way is also conditioned by achievement of a certain degree of moral and intellectual maturity.

A criminal offence committed by a young person is called a wrong act. A wrong act is therefore a form of delinquency of juvenile offenders corresponding to the criminal offences of adults. For their assessment, the criminal act applies, with the exceptions stipulated by law. Therefore it is not a new category of criminal offence.

Legal consequences of wrong acts committed by juvenile offenders are *measures*. These measures are divided into *educational measures, protection measures* and *punitive measures*.

Educational measures can be imposed by the juvenile court in the preparatory proceedings by the prosecutor with *consent from the young person already in the progress of these proceedings, latest until it is completed legitimately*. The consent from the young person is necessary here due to presumption of innocence – if the education measure is imposed already in the progress of the criminal proceedings against the young person.

The purpose of the *protective measure* is to influence the mental, moral and social development of a young person in a positive way and to protect the society against wrong acts committed by juvenile offenders.

*Punitive measures* can only be applied if special ways of proceedings and measures, mainly those restoring the disturbed social relations and contributing to prevention of unlawful acts, would probably not lead to achievement of the purpose of this act. *As regards juvenile offenders who are responsible for criminal acts, it is implementation of public prosecution in criminal area.*

A child who had not turned fifteen at the time when the act which is otherwise a criminal offence was committed is not responsible for criminal acts according to this act but it is possible to apply to him/her measures necessary for his/her reformation, education and protection as these acts also required a suitable reaction. These measures (supervision by a probation officers, inclusion in a therapeutic, psychological or another suitable educational programme from the scope of educational care, protective education, education obligation and education restrictions) will be inflicted by the juvenile court within the civil court proceedings upon a proposal from the *public prosecution (here it is implementation of non-criminal competence of the Public Prosecutor's Office).*

In the proceedings conducted against children less than fifteen years of age who were supposed commit an act which would otherwise be a criminal offence, the juvenile court proceeds in accordance with special legal regulations stipulating civil court proceedings, as children under fifteen are not responsible for criminal acts and therefore it is not possible to conduct criminal proceedings against them. It is thus *civil law proceedings* the basic aim of which is not to prove the guilt of the child but to take such measures to continue its proper education and favourable development.

The juvenile court will commence the proceedings either *upon a proposal from the public prosecution* or possibly even *without this proposal. The Public Prosecutor's Office is obliged to make the proposal immediately after it finds out that criminal prosecution is inadmissible as it is a person who is not responsible for criminal offence due to his/her age.*

## **2., 3.**

As it has already been specified above, the area of criminal law for young people was stipulated by a separate Act on justice in the matters of young people in the Czech Republic.

A special system of justice for young people also requires specialists who are able to ensure its problem free operation in practice. This applies mainly to *specialised juvenile court*, even if they were established within the scope of the existing system of general courts, and specialised other bodies active in criminal proceedings. Judges, public prosecutors, members of police bodies and officers of Probation and Mediation Service operating in criminal matters must have a special training for handling young people. In the proceedings against young people it is necessary to pay attention to the fact that interrogation, hearing and deciding of their criminal matters is entrusted to persons whose knowledge of the issues connected with education of young people will ensure fulfilment of the educational purpose of the proceedings.

Administrative ensuring of protection of children's rights in the system of the Public Prosecutor's Office is ensured by a model organisation order. The model organisation order determines the basic principles of the organisation, internal relations, performance of the prosecution administration and management of the

prosecutions as a system of state authorities intended for representation of the state during protection of public interests in the matters entrusted by law to its competence and therefore it also applies to the area of protection of children and young people.

An internal regulation of the Public Prosecutor's Office determines the specializations of the public prosecutors. Specialization is understood as the main orientation of the activities of the public prosecutor operating in the district, regional, higher or supreme Public Prosecutor's Office. The public prosecutor settles matters according to its specialization. Specializations are divided into specialisations in the criminal section and specialisations in the non-criminal section.

In the district, regional and higher Public Prosecutor's Office, there are criminal specializations for unlawful acts of young persons, acts committed by children under 15 which would otherwise be criminal offences and criminal offences committed on young people. There are also non-criminal specializations for social and legal protection of children and proceedings in the matters of children under 15 and young people not responsible for criminal acts.

Act on justice in the matters of young people stipulates that judges, public prosecutors, members of police bodies and officers of the Probation and Mediation Service acting in the criminal matters of young people must have a special training for handling young people.

Special education of judges, public prosecutors and officers of Probation and Mediation Service (and also assistants of judges and public prosecutors, legal probationers and senior officers of courts and Public Prosecutor's Office) operating in the area of justice in the matters of young people is ensured by Ministry of Justice by means of its Judicial Academy.

It includes mainly mediation of knowledge from the area of criminology, development psychology, children's psychiatry, special pedagogy and social work and increasing of specialist qualification of prosecutors, including deepening of specialisation determined by an instruction of general nature.

Education is organised in regular, quite short intervals, and the lecturers are not only selected judges, public prosecutors specialized in the particular topic but also policemen, experts, psychiatrists and psychologists specialising in young people, university professors with specialisation in law and pedagogy, officers and assistants of Probation and Mediation Service and other experts specialising in work with young people. The level of the education organised in this way can be assessed as very high.

#### **4.**

As regards rights of particularly vulnerable victims, it is necessary to point out that Czech criminal law does not know this category. In spite of that, in the Code of Criminal proceedings it is possible to find provisions that apply only to a certain group of the injured person (victim) or witnesses. The Code of Criminal proceedings requires a specific procedure for them. In reality this therefore creates a category of special (different) victims. Concretely this applies to victims under 15 years of age.

If a person younger under the age of fifteen is interrogated as a witness concerning the facts recalling of which could have adverse impacts on their mental and moral development with regard to their age, it is necessary to carry out the interrogation in a particularly carefully way and as regards its content in such a way so that usually it

was not necessary to repeat interrogation in next proceedings. A pedagogue (a teacher) or another person with experience with education of young people who would contribute to the proper conducting of interrogation with regard to the subject matter of interrogation and degree of the mental development of the interrogated person will be present at interrogation. If it can contribute to perform the interrogation correctly, parents can also be present.

The basic principle for interrogation of children under the age of 15 is a request of single interrogation.

New interrogation of a child is only possible in necessary cases. Legal regulation is motivated by the effort to prevent so-called system child abuse, which is characteristic by the secondary abuse of a child when after the initial trauma, injury or damage of the child there is this secondary abuse by the system which was supposed to protect the child. Limitation of negative impacts of the criminal proceedings on a child should also be achieved by the regulation in the provisions of section 102 (2) of Code of Criminal proceedings according to which it is possible to give evidence by reading of interrogation of an underage child younger than 15 in the court proceedings on the basis of a court decision without having to fulfil the conditions stipulated in section 211 of Code of Criminal proceedings.

In this connection we would like to point out the **Programme of establishment of special interrogation rooms for child victims and witnesses** of Ministry of Interior, Crime Prevention Department, in cooperation with the Police Headquarters of the Czech Republic.

Thanks to the Programme of establishment of special interrogation rooms for child victims and witnesses, 17 special interrogation rooms were established in 2007 in the selected criminal police and interrogation stations in the Czech Republic.

The main goal is to prevent secondary victimisation of child victims within the scope of criminal proceedings and strengthening of lawfulness and quality of acts in criminal proceedings where children participate as victims or witnesses. These rooms are adapted and equipped in such a way to arouse calming atmosphere so that a child is not traumatised by the surroundings. These rooms are equipped with monitoring audio and video technology which enables quality recording of interrogation.<sup>1</sup>

Ministry of Justice of the Czech Republic considers a possibility that the rights of victims, as the mentioned **subject of special care**, were stipulated **completely** by a special act. This separate and complete stipulation in a special act would emphasise the importance of victims and their rights. **Protection against secondary victimisation** has not been regulated sufficiently yet. This imperfection should also be eliminated by the proposed act. For the cases specified by law it will be mainly suitable to stipulate the right for interrogation by a person of the same sex, right for accompaniment by a fiduciary, right for interrogations in special rooms. It should also stipulate an obligation of further education (e.g. courses from the field of psychology)

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<sup>1</sup> The interrogation area comprises of two rooms: (1) interrogation room the layout and interior equipment of which corresponds to the requirements for suitable environment for work with children; (2) technical or monitoring room which is equipped with technology for the purposes of making and processing of recordings and it is also intended for passive monitoring of the activities happening in the interrogation room by the participating persons. In the above standard version, there can also be a waiting room - playroom.

of the bodies active in criminal proceedings who come in contact with particularly threatened victims (e.g. the way in which interrogation is carried out).

Public Prosecutors pay attention to consistent use of proposals of alternative ways of criminal proceedings, alternative sanctions and strengthening of individual attitude to the accused.

Act on justice in the matters of young people is based on the principle of economy of criminal repression. The Act instructs to prefer alternative procedures and measures focused on the social integration and prevention. Use of punitive measures is only admissible in cases when it is not possible to achieve the aim of the act in another way. Therefore punitive measure are understood here as ultima ratio.

Generally it is possible to say that public prosecutors in criminal proceedings follow the individual approach to the individual young offenders. In the preparatory proceedings, the public prosecutors use the individual statutory institutes, including educational measures and institutes of diversion (i.e. solving of a matter in a procedural way - diversion).

The emphasis is placed on the educational element of the punishment, resp. measure as well as the actual criminal proceedings. Repressive punishment resp. punitive measures connected with imprisonment are only proposed in justified cases. Most often they use abandonment of imposing of a punitive measure and conditioned abandonment of imposing of a punitive measure with supervision (i.e. alternative sanctions connected with supervision by the probation officer). Implementation of an unconditional punitive measure of imprisonment is only applied in case the punitive measure of conditioned sentence and conditioned sentence with supervision obviously does not fulfil its purpose.

In this respect and generally in the area of criminal policy towards young people, it is necessary to assess positively the cooperation of bodies active in criminal proceedings with the officers of Probation and Mediation Service.

The Probation and Mediation Service provides assistance and cooperation in the preparatory procedure. Public prosecutors make use of the assistance and cooperation offered by the Probation and Mediation Service mostly to uncover the causes of crimes and to settle a dispute between the accused and the injured person.

The assistance and cooperation offered by the Probation and Mediation Service in criminal proceedings should help

- d) replace remand in custody by an alternative measure,
- e) the matter in question to be handled in proceedings of a special type,
- f) the punishment to be one not connected with imprisonment.

The activities of public prosecutors making use of the assistance and cooperation offered by the Probation and Mediation Service are based on the principle that such assistance and cooperation

- e) helps remove the consequences of a crime for the injured persons and other persons affected by the crime,
- f) provides special care for juvenile persons and accused persons of an age close to that of juvenile persons,

g) contributes to the protection of the rights of persons injured by crime and to coordination of social and therapeutic programmes working

## 5.

Act on justice in the matters of young people stipulates that a young person can only be taken in detention if the purpose of detention cannot be achieved otherwise. From this point of view, using of the institute of detention in criminal matters of young people is an absolutely exceptional measure. The legal regulation of detention is based on the fact that detention of a young person can be replaced with a guarantee, supervision, promise or his/her placement in the care of a reliable person. Detention of a young person can also be replaced with a financial guarantee. These measures are understood in such a way that they should be used preferentially.

Detention in the proceedings in matters of young people must not be longer than two months and if it is a particularly serious wrong act, it must not last longer than six months. After this time expires (two or six months), in exceptional cases it is possible to extend the detention by two more months and in the trial of particularly serious wrong acts by six more months.

Such an extension can only be made once in the preparatory proceedings and once in the proceedings at the juvenile court.

After a young person is released from detention, it is possible to order supervision by a probation officer over the young person which may last until the end of the criminal proceedings.

The subject matter of supervision of public prosecutor is consistent observance of generally binding legal regulations when implementing detention and imprisonment sentence. The subject matter of supervision is not suitability or purposefulness of the procedure of Prison guards on condition that the actual procedure is in accordance with the legal regulation. The subject matter of supervision is not even the conception of detention or imprisonment sentence or correctness or purposefulness of the acts of Prison guards which are only of organisation, controlling or economic nature.

The public prosecutor should pay special attention to persons not being remanded in custody or imprisoned illegally.

When supervising the adherence to legal regulations in places of imprisonment and custody, the public prosecutor is authorised at any time to visit places of custody and imprisonment.

When supervising the serving of a term of imprisonment and the serving of custody, the public prosecutor is authorised to order that a person serving a term of imprisonment (custody) unlawfully should be released immediately. The Prison Service is obliged to execute the order of the public prosecutor immediately.

Under Section 29 of Act no. 293/1993 Coll., on detention on remand, when performing supervision, the public prosecutor is authorised

- a) at any time, to visit places of detention,
- b) inspect the documents on the basis of which the accused persons have been detained, talk to such persons without the presence of a third person,
- c) to check whether the orders and decisions of the Prison Service in the prison related to detention serving comply with the law and other legal regulations,

- d) to require from the Prison Service staff in the prison the necessary explanations, files, documents, orders and decisions related to the detention,
  - e) to issue orders requesting adherence to the regulations in force governing the detention serving,
  - f) to order that a person detained against a decision of investigative, prosecuting and adjudicating bodies or without such a decision should be released immediately.
- The Prison Service is obliged to carry out the public prosecutor's orders immediately.

## 6., 7.

Act on justice in the matters on young people stipulates a principle of cooperation of bodies active in criminal proceedings with a body of social and legal protection of children, with interest groups of citizens and with persons implementing probation programmes. Involvement of these entities could contribute significantly to the timely and adequate reaction to young delinquents. Therefore the act places a duty on the bodies active in criminal proceedings to cooperate with these entities and their participation in implementation of court decisions and cooperation in reformation of young people as well as during creation of a suitable social background of young people is also expected.

As in the proceedings in criminal matters of young people it is also necessary to find out as thoroughly as possible the *degree of intellectual and moral development* of the young person, his/her *character, background and environment* where he/she lived and was brought up, his/her *behaviour before the wrong act was committed and after it was committed and other circumstances* important for the choice of means suitable for his/her reformation, it is important that the public prosecutor cooperates with the relevant body of social and legal protection of children and Probation and Mediation Service.

The public prosecutor usually asks these entities to establish the background of the young person. *A report on personal, family and social background of a young person and current life situation of a young person* must be prepared in writing, unless the presiding judge for juvenile and in the preparatory proceedings the public prosecutor determine otherwise, and it must include mainly the age of the young person, degree of his/her maturity, and also his attitude to the wrong act and his/her willingness to ensure elimination of the caused damage or redressing of other consequences, family background of the young person, including his/her relationship with his/her parents, degree of influence of the parents on him/her and relationship between the young person, his/her extended family and close social surroundings, records of his/her school attendance, behaviour and school results, and if he/she is employed, also the facts important for assessment of his/her behaviour in his/her job, list of his/her previous wrong acts and measures applied against him/her as well as description of their implementation, including the way of behaviour of the young person.

In the criminal and non-criminal area, the public prosecutor mainly cooperates with the bodies of social and legal protection of children and with Probation and Mediation Service. It also does not exclude cooperation with other entities (e.g. school, municipal authorities, pedagogical and psychological counselling centres etc.). The aim of the cooperation is educational influence on the young person so that in future he/she would not commit any new wrong acts, individual approach to solution

of the individual issues and timely reaction to the needs and interests of the injured persons.

The Public Prosecutor's Office supports the efforts for creation of models of multidisciplinary cooperation of all the organs active in the areas of delinquency of children and young people (i.e. courts, police, Public prosecutor's Office, Probation and Mediation Service, department of social and legal protection of children, workplaces implementing probation programmes and other social services), starting from the local level.

## **II. Civil justice system and administrative proceedings:**

### **8.**

Powers of the public prosecution in the non-criminal proceedings are defined by the laws adjusting the appropriate lawsuit conditions, in which the Public Prosecutor's takes part as public prosecutors, or by virtue of entering the proceedings.

Non-criminal competence is fulfilled by presence of the Public Prosecutor's Office in civil proceedings and performance of supervision over detention in the sections defined by law. Thus in the cases specified by law the Public Prosecutor's Office can lodge a motion (legal action) for commencement of civil proceedings or to enter the civil proceedings in the matters enumerated in the Civil procedure Code. In cases when the civil proceedings were commenced by its motion, it is a party of these proceedings as the complainant (plaintiff) and thus it is entitled to procedural authorisations (rights) and obligations of a party of proceedings. The Public Prosecutor's Office that entered civil proceedings is not a party of the proceedings but its special subject.

The legislator chose the non-criminal competences of Public Prosecutor's Office with regard to the areas which concern the protection of rights of persons whose rights can be threatened due to their personal or psychic qualities, where the breach of law can have a wider impact, where economy and mainly the market relations can be disturbed significantly by serious criminal activities. In these areas, which are covered by non-criminal competence, the main criterion for protection of a public interest is protection of fundamental human rights.

From the point of view of the requirement for protection of fundamental human rights, supervision of observance of legal regulations during performance of institutional and protective education and performance of detention or imprisonment sentence is of special importance.

Participation of the Public Prosecutor's Office in the civil proceedings due to protection of human rights is necessary in the matters of social and legal protection of children. This concerns the authorisation of the Public Prosecutor's Office to lodge a motion for imposition of institutional education, imposition of educational measures, suspension, limitation or disqualification of parent responsibility pursuant to Family Code, for imposition of protective education according to Act on justice in the matters of the youth and act on performance of institutional education or protective education in school facilities and on preventive educational care in school facilities, for cancellation of the ordered institutional or imposed protective education pursuant to act performance of institutional education or protective education in school facilities and on preventive educational care in school facilities, for imposition of measures

pursuant to Act on justice in the matters of the youth. As regards the protection of rights and interests of children as well as stability of its status conditions, legal actions of the Supreme public prosecutor concerning the paternity denial are highly significant.

In the area of protection of human rights, entering the civil proceedings which were commenced by the court without a motion or on the basis of a motion of another plaintiff in the matters of imposition of educational measure, order of institutional education, suspension, limitation or disqualification of parent responsibility, capability of legal acts, specification of acceptability of acceptance or keeping in a health care institution or determination whether it is necessary to have consent of child's parents for his/her adoption are also important.

According to the Family Code, the basic preconditions for submitting of a proposal for inflicting of an educational measure (reprimand for the underage person, his/her parents and persons who disrupt his/her proper education; determination of supervision over the underage person; inflicting of restrictions on the underage person which will prevent any harmful impacts on his/her education, mainly visiting of facilities and entertainment not suitable for the underage with regard to his/her person) are for example the following:

- a) existence of public interest in submitting of the proposal,
- b) problems with the child's behaviour or disruption of the proper education.

The public interest in submitting of the proposal exists if it applies to protection of the right of the child for favourable development and proper education and for favourable conditions of upbringing, education and universal development.

The basic preconditions for submitting of the proposal for ordering of institutional education are the following:

- a) existence of public interest in submitting of the proposal,
- b) serious threat or serious disturbance of the child's upbringing,
- c) finding out that other educational measures did not lead to reformation or that parents cannot ensure upbringing of their child due to other serious reasons, or
- c) if no other educational measures proceeded, finding out that ordering of the institutional education is in interest of the underage person,
- e) the fact that upbringing of a child cannot be ensured by means of the substitute family care.

Public interest in submitting of this proposal exists if protection of the right of the child for favourable development and proper education and for favourable conditions for upbringing, education and universal development, employment, protection against any physical or mental violence, negligence, abuse or exploitation cannot be ensured by the substitute family care.

The basic preconditions for submitting of a proposal for suspension of parent responsibility pursuant to act on family are the following:

- a) the fact that a serious obstacle prevents a parent to perform his/her parent responsibilities and
- b) existence of an interest of the child for submitting of such a proposal.

The basic preconditions for submitting of a proposal for deprivation of parent responsibility according to Family Code are the following:

- a) the fact that a parent misuses his/her parent responsibility or its implementation or neglects it in a serious way, or
- b) the fact that a parent committed an intentional criminal offence against his/her child or used his/her child under fifteen for committing a criminal offence or committed a criminal offence as an accomplice, or incited or assisted committing of a criminal offence committed by his/her child.

When assessing the public interest in submitting of the above specified proposals, it is necessary to take into consideration the fact that

- a) the main principle of legal protection of children is a principle of preventive influence on family relations if they are interfered with in such a way that operation of public authority is possible,
- b) it is necessary that the forms of activities and instruments of legal protection would enable helping the child or parents or the whole family without disturbing privacy of the family and mainly the primary right of parents to look after their children, to bring them up together and to make such decisions which are beneficial for children,
- c) legal protection of children must not mean any inadequate interference in the family privacy
- d) it is necessary to consider the degree of interference from the state (and its bodies) during solution of various social events in which the children and their parents happen to be, mainly in case the life and health of the child are threatened
- e) use of the means of operation of the Public Prosecutor's Office in the area of care for children and social and legal protection of children are governed with the principle of lawfulness and awareness of the fact that the main aspect is the highest well-being of the child.

In the area of social and legal protection of children, the Public Prosecutor's Office is mainly obliged to

- a) inform a body of social and legal protection about breach of obligations or misusing of the rights arising from the parent responsibility and about the fact that parents cannot fulfil their obligations arising from their parent responsibility,
- b) provide adequate help to a child who asks for it,
- c) enable exercise of the right of the child for free expression of his/her opinion for the purposes of social and legal protection and to pay attention to this expression,
- d) within its competence, provide assistance to a parent or another person responsible for upbringing of the child, if they ask the Public prosecutor's Office for help,
- e) inform the municipal office with extended competence about the facts suggesting that it is a child to whom social and legal protection must be provided.

If, as a consequence of a crime, a child was injured, or incurred damage to property, moral or other damage, it is, by virtue of Section 43, Paragraph 1 of the Code of Criminal proceedings, seen as an injured person and, as such, is entitled to its statutory representative or guardian exercising the injured person's rights under the Code of Criminal proceedings on its behalf.

When supervising the preparatory proceedings, a public prosecutor must see to it that the injured persons may exercise their rights.

Code of Criminal proceedings stipulates that public prosecutors are obliged to prosecute in all cases of criminal acts of which they learn, unless an act of Parliament or promulgated international convention to which the Czech Republic is bound states otherwise. The principle of legality, which is in question here, is a consequence of the principle of public office regarding the initiation of criminal proceedings

**10.**

As it has already been specified in answer No 9, due to protection of human rights, participation of the Public Prosecutor's Office in the civil proceedings is necessary in the matters of social and legal protection of children, in the area of supervision over observance of legal regulations in places where detention, imprisonment sentence, institutional or protective education, security detention is performed and in the area of justice in the matters of young people.

In the proceedings in the area of family law – social and legal protection of children, the Public Prosecutor's Office is entitled to propose imposing of an educational measure (ordering of institutional education or its extension, suspension, restriction or deprivation of parent responsibility).

In the area of justice in the matters of young people, for a child under 15 who committed which would be a criminal offence otherwise, the Public Prosecutor's Office is entitled to propose inflicting of supervision by a probation officer, inclusion in a therapeutic, psychological or another suitable educational programme from the scope of educational care, protection education, educational obligations and educational restrictions. (The prosecutor proposes the specified measures in the proceedings concerning the proposal for imposing of measures pursuant to Act on justice in the matters of young people).

In the area of supervision over detention, Public Prosecutor's Office is entitled to propose cancellation of the ordered institutional upbringing or cancellation of the proposed protective education. The proposal is based on the knowledge gained from the implementation of supervision over observance of legal regulations in the places where the institutional or protective upbringing is implemented.

**11.**

Amendment of the Civil procedure Code regulations implemented by Act No 295/2008 Coll. introduced a completely new type of proceedings concerning returning of an underage child in the matters of international kidnapping of children. The main goal is to make the proceedings faster and more efficient and mainly to protect the interests of a kidnapped child.

Public Prosecutor's Office is entitled to enter the proceedings concerning returning of a child in the matters of international kidnapping of children. The aspect of public interest in entering of the proceedings pursuant to the current court regulations is interest in achieving of

- a) closer cooperation of the bodies active in criminal proceedings during implementation of court measures, i.e. supervision over movement of the child in the Czech Republic,
- b) higher ability of action in order to ensure protection of the child

**12.**

Code of Criminal proceedings regulates the institution of secret witnesses.

If the circumstances found suggest that a witness's or a person's health related to him/her is endangered or another grave danger of their basic right threatens and if such witness's protection cannot be ensured in any other manner, the agency involved in the criminal proceedings shall take up measures to conceal and make secret the identity and the face of the witness; the first name and last name and other personal data of his/her are not mentioned in the record but kept separately from the criminal file and may be disclosed to the agencies involved in the criminal proceedings in the given case only. The witness shall be informed of the right to ask for concealment of his/her face and to sign the record by a first name and last name thought out under which the witness's actual personal data are filed. If the protection of such persons is to be provided, the agency involved in the criminal proceedings takes up immediately all the required measures. Special method of protecting witness and persons related to them is provided under the specific law. If the grounds for concealing the face of the witness and separate filing of his/her personal data disappear, the agency involved in and conducting the criminal proceedings at that time attaches such data to the criminal file, and the witness's face is not concealed any more.

On 1st June 2001, the Act no. 137/2001 Coll., on special protection of a witness and other persons in connection with criminal proceedings, and on amendments of the Act no. 99/1963 Coll., Rules of Civil Procedure, came into operation. It means the possibility of protection, relocation, help in social integration in a new environment, concealment of real identity. It is worth to refer to § 55 par. 2, Code of Criminal proceedings, which relates to procedure in protection of a witness in criminal proceedings.

Special means of the witness's protection regulates the Act no. 137/2001 Coll., on special protection of a witness and other persons in connection with criminal proceedings. They are personal protection, removal protected persons incl. members of household, promoting of protected persons for the purposes their social participation in new surroundings and the camouflage of actual identity of these persons.

The witness's protection Ministry of Interior authorizes (public prosecutors or judges brings relevant proposition by means of Ministry of Justice).