

Question 6.b.

CHAPTER XI

PROVISIONS ON JUVENILES

Fundamental provisions

Section 105

(1) Those who have attained the age of twelve years but have not attained the age of eighteen years when committing the criminal offence shall qualify as juveniles.

(2) The provisions of this Act shall apply to juveniles with the derogations specified in this Chapter.

Section 106

(1) The primary objective of a penalty imposed on or a measure applied to a juvenile shall be to assist the juvenile concerned to develop in the appropriate direction and become a useful member of society; for this reason, the education and protection of the juvenile concerned shall be taken into account when deciding on the measure or penalty.

(2) A penalty shall be imposed on a juvenile if the application of a measure would not achieve its objective. Those who have not attained the age of fourteen years when committing the criminal offence shall only be subject to measures.

(3) A juvenile shall only be subject to a custodial measure or custodial penalty if the objective of the measure or penalty cannot be achieved by other means.

Active repentance

Section 107

If the perpetrator is a juvenile, active repentance may also be permitted if a misdemeanour specified in section 29 (1) or a felony punishable by not more than five years of imprisonment was committed.

Penalties and measures

Section 108

(1) A juvenile may also be subject to a measure of special education in a juvenile correctional institution.

(2) Imprisonment, confinement, or community service shall not be applied in addition to special education in a juvenile correctional institution.

Imprisonment

Section 109

(1) The shortest term of a sentence of imprisonment imposed on a juvenile shall be one month, regardless of the criminal offence.

(2) If the juvenile has not attained the age of sixteen years when committing the criminal offence, he shall not be subject to a sentence of imprisonment exceeding

- a) ten years for a criminal offence punishable also by life imprisonment,
- b) five years for a criminal offence punishable by imprisonment of more than five years.

(3) If the juvenile has attained the age of sixteen years when committing the criminal offence, he shall not be subject to a sentence of imprisonment exceeding

- a) fifteen years for a criminal offence punishable also by life imprisonment,
- b) ten years for a criminal offence punishable by imprisonment of more than ten years,
- c) five years for a criminal offence punishable by imprisonment of more than five years.

(4) The periods specified in paragraphs (2) to (3) shall apply to calculating the limitation period regarding liability to punishment and the provisions pertaining to recidivists.

(5) As regards a juvenile, the possibility of release on parole may be excluded pursuant to section 38 (4) e) only if he has attained the age of sixteen years when committing the criminal offence and was sentenced to imprisonment for ten years or more.

Section 110

(1) Imprisonment shall be enforced in a medium-security penal institution for juveniles if

- a) the juvenile is sentenced to imprisonment for two years or more for committing a felony,
- b) the juvenile sentenced to imprisonment for one year or more is a recidivist, or
- c) within three years prior to committing the intentional criminal offence, the juvenile sentenced to imprisonment for one year or more was sentenced to special education in a juvenile correctional institution for committing an intentional criminal offence.

(2) Apart from the cases specified in paragraph (1), imprisonment shall be enforced in a low-security penal institution for juveniles.

Confinement

Section 111

A sentence of confinement imposed on a juvenile shall not be shorter than three days or longer than thirty days.

Community service

Section 112

Community service may only be imposed on a juvenile if he has attained the age of sixteen years when the conclusive decision is passed.

Financial penalty

Section 113

(1) Financial penalty may only be imposed on a juvenile if he has his own earnings, income, or adequate assets.

(2) The number of daily units of a financial penalty imposed on a juvenile shall not be lower than fifteen or higher than two hundred and fifty; the amount of one daily unit shall not be less than five hundred or more than fifty thousand forints.

(3) If a financial penalty imposed on a juvenile is not collectible, it shall be converted to

- a) community service if permitted by section 112, or
- b) imprisonment.

(4) For the purpose of determining community service that replaces financial penalty, one daily unit shall be equivalent to two hours of community service. In other respects, the provisions laid down in section 47 shall apply to community service replacing financial penalty, with the proviso that the period of community service may be different than those specified in section 47 (1).

(5) If a juvenile does not perform his service voluntarily, the community service or its remaining part shall be converted to imprisonment. In other respects, the provisions laid down in section 48 shall apply.

Disqualification from a profession

Section 113/A

In cases deserving special consideration, the application of section 53 (2) against a juvenile may be dispensed with.

Expulsion

Section 114

A juvenile may be expelled if

- a) he is sentenced to imprisonment for ten years or more,
- b) his presence in the country would pose a significant threat to public safety, and
- c) his right to respect for his family life is not violated.

Exclusion from participating in public affairs

Section 115

A juvenile may only be excluded from participating in public affairs if he is sentenced to imprisonment for over one year.

Release on probation

Section 116

(1) A juvenile may be released on probation in relation to any criminal offence.

(2) The probationary period shall not be shorter than one year or longer than two years.

(3) In a case specified in section 66 (1), the court shall order special education in a juvenile correctional institution or impose a penalty.

Reparation work

Section 117

A juvenile may only be subject to reparation work if he has attained the age of sixteen years when the conclusive decision is passed.

Ban on entering certain areas

Section 118

If a juvenile has an appropriate family environment, he may not be banned from the settlement in which his family lives.

Probationary supervision

Section 119

(1) During the period of

- a) parole,
- b) release on probation,
- c) probationary period of a sentence of suspended imprisonment,
- d) temporary release from a juvenile correctional institution,
- e) conditional suspension by the prosecutor, a juvenile shall be subject to probationary supervision.

(2) If a juvenile is sentenced to reparation work then he shall also be subject to probationary supervision.

(3) Section 71 (4) shall not apply to a juvenile.

Special education in a juvenile correctional institution

Section 120

(1) Special education in a juvenile correctional institution may be ordered by a court if placement in a juvenile correctional institution is necessary for a juvenile to be raised successfully. A person may not be sentenced to special education in a juvenile correctional institution if he has attained the age of twenty years when the conclusive decision is passed.

(2) The period of special education in a juvenile correctional institution shall not be shorter than one year or longer than four years.

Section 121

(1) If special education in a juvenile correctional institution is ordered, the court shall establish that the juvenile may be released from the juvenile correctional institution temporarily after serving half of his period of special education in a juvenile correctional institution if

a) he has served at least one year in the juvenile correctional institution, and

b) there is reasonable ground to believe that the objective of the measure can be achieved without any further special education in a juvenile correctional institution.

(2) The period of temporary release shall be equal to the remaining period of special education in a juvenile correctional institution, but it may not be shorter than one year.

(3) The court shall terminate temporary release if the juvenile is sentenced to imprisonment, with the exception specified in section 122, or special education in a juvenile correctional institution during the period of temporary release. If the court imposes another penalty or applies another measure on the juvenile, temporary release may be terminated.

(4) If temporary release is terminated, the period spent on temporary release shall not be credited to the period of special education in a juvenile correctional institution.

Section 122

If a juvenile is sentenced to imprisonment to be served during the period of special education in a juvenile correctional institution or of temporary release for a criminal offence committed after he was sentenced to special education in a juvenile correctional institution, the sentence of imprisonment shall be enforced. In such a case, the remaining period of special education in a juvenile correctional institution shall be converted to imprisonment, replacing two days of special education in a juvenile correctional institution by one day of imprisonment.

Concurrent sentence and accumulative sentence

Section 123

(1) For a juvenile, a concurrent or accumulative sentence shall not exceed imprisonment for

- a) twenty years in the case specified in section 109 (3) a),
- b) fifteen years in the cases specified in section 109 (2) a) and (3) b),
- c) seven years and six months in the cases specified in section 109 (2) b) and (3) c).

(2) The term of imprisonment applicable to a juvenile shall not exceed the periods specified in paragraph (1) a) and b), even if section 90 (2) is applied.

(3) If special education in a juvenile correctional institution and imprisonment concur, imprisonment shall be enforced as accumulative sentence. The term of such a sentence may be extended by the court by up to one year if doing so is necessary to achieve the objective specified in section 106. The period of extension shall not reach the remaining period of special education in a juvenile correctional institution.

Consolidated measure

Section 124

(1) If the court determines multiple sentences of special education in a juvenile correctional institution for a juvenile and none of the sentences has been enforced by, or they are being enforced concurrently at, the time of ordering the consolidated measure, the court shall sentence the juvenile to special education in a juvenile correctional institution as a consolidated measure.

(2) The period of special education in a juvenile correctional institution ordered as a consolidated measure shall be determined so that it is not shorter than the longest period of special education in a juvenile correctional institution or longer than the sum of all periods of special education in a juvenile correctional institution ordered or four years.

Sentencing in the case of plea agreement

Section 124/A

(1) If plea agreement is approved for a juvenile who had not attained the age of sixteen years when committing the criminal offence, and who, contributing to substantiating the case or another criminal case, has cooperated significantly with the prosecution service or the investigating authority, the juvenile may not be subject to a sentence of imprisonment exceeding

- a) eight years for a criminal offence punishable also by life imprisonment,
- b) three years for a criminal offence punishable by imprisonment of more than five years,
- c) two years for a criminal offence punishable by imprisonment of more than three years,
- d) six months for a criminal offence punishable by imprisonment of not more than three years.

(2) If plea agreement is approved for a juvenile who had attained the age of sixteen years when committing the criminal offence, and who, contributing to substantiating the case or another criminal case, has cooperated significantly with the prosecution service or the investigating authority, the juvenile may not be subject to a sentence of imprisonment exceeding

- a) ten years for a criminal offence punishable also by life imprisonment,
- b) eight years for a criminal offence punishable by imprisonment of more than ten years,
- c) three years for a criminal offence punishable by imprisonment of more than five years,
- d) two years for a criminal offence punishable by imprisonment of more than three years,
- e) six months for a criminal offence punishable by imprisonment of not more than three years.

(3) When sentencing, the penalty range under paragraphs (1) and (2) shall be taken as reference

- a) for concurrence of criminal offences,
- b) regarding a special, a multiple or a violent multiple recidivist, or
- c) if the criminal offence was committed in a criminal organisation.

Crediting pre-trial detention and criminal supervision

Section 125

(1) The entire period of a pre-trial detention, or of a criminal supervision during which, as prescribed by the court, the defendant was not allowed to leave a home, other premises, an institute or a fenced area of it without permission, shall be credited to the term of special education in a juvenile correctional institution ordered.

(2) For the purpose of crediting, one day of special education in a juvenile correctional institution shall be equivalent to

- a) one day served in pre-trial detention, and
- b) three days served under criminal supervision under paragraph (1).

(3) Any period remaining after crediting shall be considered equivalent to one day of special education in a juvenile correctional institution.

Expungement

Section 126

(1) A juvenile convict shall be granted expungement by virtue of the Act

- a) on the day when the conclusive decision becomes final and binding, if enforcement of a sentence of imprisonment is suspended,
- b) on the day when the sentence is served or its enforceability ceases, if he was sentenced to imprisonment for not more than one year for an intentional criminal offence,

c) three years after the sentence is served or its enforceability ceases, if he was sentenced to imprisonment to be served for over one year but not more than five years for an intentional criminal offence.

(2) The court may grant expungement to a juvenile upon request after serving a sentence of imprisonment of over one year for an intentional criminal offence if he is worthy of expungement.