

1. In accordance with the Law nr.294 from December 25, 2008 on Prosecutor's Office, Prosecutor is an autonomous institution within the judicial authority, which in the limits of its powers and jurisdiction, protect the general interests of society, the legal order, rights and freedoms of citizens, lead and exercising prosecution, representing the prosecution in the courts, under the law.

To achieve uniform implementation of the criminal policy of the state prosecutors working to prevent and combat crime, studying the causes that generate or promote crime, shall develop and submit proposals to eliminate them and to improve legislation, including juvenile justice.

The Prosecutor's service has the following competences:

- a) in the name of the society and in public interest, ensures the enforcement of the law, protects the legal order and the citizens' rights and freedoms, when the violation thereof calls for a penal sanction;
- b) conducts and carries out the criminal investigation;
- c) represents the accusation in the courts of law;
- d) participates, under the law, in court trials on civil and on cases of administrative offence, where court proceedings have been instituted on its initiative;
- e) ensures the legal assistance and the international cooperation in its sphere of activity;
- f) implements the national penal policy;
- g) ensures the efficient protection of witnesses and victims of crimes;
- h) initiates civil actions, in cases set forth in the law;
- i) controls the observance of laws in the places of preliminary and remand detention;
- j) exercises control over the execution of judicial decisions on criminal cases.

By the Law nr.184-XVI for amending and supplementing certain acts, adopted on 29.06.2006, entered into force on 11.08.2006 amendments have been provided for jurisdiction in cases concerning minors, so that the exercise of criminal prosecution if they committed crimes was give to the prosecutor's jurisdiction.

Criminal Code, adopted by Law nr.985 of 18.04.2002, establishes the general principles of criminal liability and criminal sanctions of minors.

According to Article 21 of the Criminal Code – are criminal liable the responsible individuals who at the time when committed the offense achieved the 16 years old. Individuals who are aged between 14 and 16 years are subject to criminal liability only for crimes specified in art.21 part (2) Criminal Code.

Criminal-proceeding law provides that juvenile detention and arrest are applied for a period not exceeding 24 hours only as exceptional measure and only in cases prescribed by law, when committed serious crimes with the application of violence, especially serious or exceptionally serious. When decide on the matter of application of arrest on the minor, in each case is discussed the binding possibility to send a minor under supervision (art.184 of the Criminal Procedure Code). Under the provisions of art.186 Criminal Code, keeping the minor in custody at the prosecution stage will not exceed 30 days and this period may be extended to 4 months only.

Criminal Procedure Code, adopted by Law nr.122 of 14.03.2003, in a special Chapter “Proceeding involving juvenile offenders” of Title III establishes particular criminal proceedings in cases concerning minors, including the procedure Juvenile’s exemption from criminal sanction with the application of educational measures by the court and other international and national regulations.

2. In the Republic of Moldova there are no judicial bodies (courts, prosecution bodies) with exclusive jurisdiction to examine the crimes committed by minors, which is a future task. Meanwhile, specialization of the judicial bodies has a variety of procedural safeguards based on a strong psychological dimension and provides higher quality of justice. A possible way to improve the situation is specialized employees within existing bodies. By decision No. 39 of 22.11.2004 “on judicial practice in criminal cases concerning minors” the Supreme Court of Justice recommended that criminal cases against minors to be examined by a panel of judges composed of judges with experience, specialized in this area and appointed to by order of the Court Head to adjudicate such a cases.

Given the importance of the issue concerned, on 29.03.2004 General Prosecutor signed the order nr.54/21 “concerning activity of prosecutors in child rights protection and management of criminal prosecution in crimes committed by minors”. By the same order territorial prosecutors have to appoint a prosecutor responsible for application in the territory of legislation concerning minors, empowering them with special competences in this area. In the new conditions regarding measures to implement some legal norms provided by the Law nr.184-XVI of 29.06.06, and given the fact that under art. II of this Law, prosecution in case when crimes committed by minors, was placed under the exclusive competence of the Prosecutor’s office, so, prosecutors exercises prosecution in cases of minors, sustain the accusation in the courts in these cases, have the information on rights and fundamental freedoms of minors and take measures to combat and prevent juvenile delinquency.

3. Under Orders mentioned in p.2 in every Prosecutor’s Office have been appointed one of the most qualified prosecutor who have experience at least 5 years of activity in the prosecution for investigation of the cases involving juvenile offenders and coordination of work concerned this.

In view of raising professional skills of prosecutors in protecting children's rights, preventing and combating juvenile delinquency, General Prosecutor's Office jointly with international organizations in this field and National Institute of Justice permanently organized participation of prosecutors and judges in training workshops on juvenile justice.

The methodical recommendations on application of legislation on child rights in the criminal prosecution of juvenile offenders have been sent to the specialized prosecutors.

For collaboration with the NGO sector General Prosecutor's Office cooperates with international organizations and NGOs concerned with human and child rights protection, among which may be referred to the U.S. Embassy in Moldova, OSCE Mission, the Mission of International Organization for Migration, United Nations

Children's Fund - UNICEF, the Council of Europe, the International Center of Women Rights Protection and Promotion "La Strada", Center for Prevention of Trafficking in Women, the Program on International Migration (MIGRANT) and International Program on Elimination of Child Labor (ILO-IPEC Moldova).

4. According to the duties incumbent to, the prosecutor is entitled to apply special procedures and means to collect testimonies. Thus, for making a complete criminal proceeding prosecutors are entitled to use the witnesses or the injured party testimonies gave in the front of the instruction judge, to apply special rules of the witness and the injured party hearing and his protection.

Thus, under art.109 Code of Criminal Procedure if the witness is not able to appear in court due to his departure abroad or due to other well-founded reasons, then the prosecutor may request that the witness be interviewed by the investigating judge, securing an opportunity for the suspect, accused, defender, injured party and prosecutor to address questions to the witness.

Under the provisions of art.110 Procedure Code if there are reasons to believe that the life, physical integrity or liberty of a witness, or of a close relative to him, are in danger related to the depositions that he makes on a case on a serious, especially serious or exceptionally serious crime, then the investigating judge, or if the case, the court may accept that the witness be interviewed without being physically present before the criminal investigating authority or in the courtroom, given that the appropriate technical devices are available.

The interview of a witness under the mentioned conditions shall be conducted on the basis of a reasoned court order of the investigating judge, or, if the case, of the court adopted at its own motion or at the reasoned request of the prosecutor, of the witness's lawyer or of any other interested person.

A witness interviewed in the conditions provided for in this article shall be allowed to disclose information about his identity other than the real one. The information about the real identity of the witness shall be recorded by the investigating judge in a separate report, to be stored in the respective court in a sealed envelope.

According to art.10 of the Law on Prosecutor's Office the prosecutor may decide, in the course of criminal investigations, on the exemption from criminal liability of the person, who has committed an act which contains elements of a crime, for opportunity reasons, and in accordance with the Criminal Code and the Criminal Procedure Code.

Criminal Code provides two types of sanctions in case when minors committed crimes - penalties and measures of educational constraints.

From category of punishments provided by art.62 of the Criminal Code for individuals, the law does not prohibit the application to the minors the following categories:

- **Fine**, from 150 to 1000 u. c., and for crimes committed in the material interest - up to 5000 u. c.;

- **deprivation of the right to hold certain positions or to practice a certain activity**, from 1 to 5 years;

- **non-paid work to the benefit of the community**, from 60 to 240 hours, from the age of 16 years and runs from 2 to 4 hours per day;
- **imprisonment** (article 70 CC) when is pronounced the prison sentence for the person who at the moment of committing the offense was under the age of 18 years, the prison term is reduced by half from the maximum penalty provided by the criminal law. In the case of concurrence of crimes the final penalty for persons under the age of 18 years shall not exceed 12 years and 6 months, and in the case of cumulative sentence - 15 years.

Life imprisonment does not apply to minors.

The legal framework of the alternatives from the Criminal Code and Criminal Procedure Code, is provided for the prosecution and court stages. Prosecutors that exercise prosecution in cases concerning minors and represent the accusation in the courts take account of this principle and preferentially apply the rules about: exemption from criminal responsibility, Application of coercion measures of an educational nature (article 54, 93 , 104 Criminal Code) conditional exemption from liability and criminal punishment (art.59, 91 Criminal Code), conviction with conditional suspension of the execution of the punishment (article 90 Criminal Code); application of non-paid work to the benefit of the community (articles 67 Criminal Code), reconciliation (article 109 Criminal Code).

Given the special and diverse needs of minors in conflict with the law, in the law conditions (article 54, 59, 93 and 104 Criminal Code), and taking into account the interests of the minor the prosecutor examine all possibilities to release the juvenile offender in the law conditions when he/she committed a minor offense without serious consequences with application of coercive educational measures as: warning; ordering the juvenile to make restitution for the damages caused, ordering the juvenile to follow a psychological rehabilitation treatment course, interning the juvenile in a special educational and correctional institution or in a medical and correctional institution, suspend the execution of the sentence of imprisonment and other non-custodial measures.

5. Following his duties Prosecutor protects the right of every child in conflict with the law to be treated in a manner possible to keep his sense of dignity and personal value. Thus, in a criminal procedure the rights and guaranties of juvenile offenders are assured, including: the presumption of innocence, the right to be informed of charges, right to keep silent, the right to a free lawyer and a competent legal advice; right to the presence of a parent or other legal representative, the right to request a confrontation or to a counter-questioning of witnesses and the right to appeal to a higher court. Respect of the rights and guaranties during criminal prosecution of a minor accused in committing a crime is done taking into account the interests of the minor and will be conducted in an atmosphere of understanding, which allows the minor the possibility to participate and express themselves freely.

Also, the prosecutor is obliged to protect any child capable of discernment, and to respect the right of the child to freely express opinion on any matters concerning him. The views of the child are taken into account with regard to age and degree of development and maturity. To this end, the child has the opportunity to be heard in any judicial and administrative proceedings against him. Hearing of

the juvenile accused in a criminal proceedings have to be conducted in accordance with the requirements of article 104 and 479 Criminal Procedure Code, with mandatory participation of advocate, educator or psychologist, and a legal representative, except when his participation is contrary to the law. Juvenile justice system rules require the prosecutor to consider the child's views in the criminal proceedings.

Another fundamental human right is a principle of the juvenile justice system which is to respect the personal privacy and to ensure the normal development of the child. This principle is respected by the prosecutors at all stages of the criminal proceedings, execution of punishment, rehabilitation and resocialization of the juvenile offender. In this regard, any information about minor in conflict with the law could not to make public, if this can lead to the identification of young offenders.

Also, criminal law requires the prosecutor to respect the principle of speed that is - to conduct criminal proceedings within limits. Article 20 part (3) Criminal Procedure Code provides that the prosecution and trial of criminal cases where appear arrested and minor is made emergency and in preference. Meanwhile, according duties under the Law on the Prosecutor's Office, prosecutor exercised, based on law, controls the observance of laws in the places of preliminary and remands detention, including the hospital granting psychiatric assistance/care without the consent of the person. If the prosecutor fined cases of detention of the person in the places listed without grounds prescribed by law, it is released immediately by order of the prosecutor performed unconditionally and immediately.

Also, the prosecutor exercised in the manner established by law, control over compliance on activity of execution of court decisions in criminal cases, civil cases and contravention cases that he started.

6. National legislation provides that elaboration of the policies in juvenile justice will be done on a multidisciplinary level, involving parents, educational institutions and all the structures responsible for the protection of child rights, for the prevention and combating juvenile delinquency, for assistance, resocialization of the minors in conflict with the law, care, protection and education of them. The central government and local authorities, law enforcement, courts have the competences for implementing this principle.

Juvenile justice system requires that in activity to protect and assist the child in conflict with the law, to combat and prevent juvenile delinquency competent public authorities, organs of protection of the rule of law, including prosecution cooperate extensively with NGOs and other representatives of civil society, which represents and defends the rights of children, realized measures to protect the rights and interests of children.

7. For effectiveness of the work in protecting children's rights, successful prevention of juvenile delinquency, prosecutors coordinate and cooperate with child protection services, police, doctors and other authorized institutions in the area.

Thus, criminal law obliged the prosecutor in the criminal prosecution and trial stages of the case involved juvenile offenders, compulsory, to determine: the conditions of the minor live and education, degree of his intellectual and psychological level, his particular character and temperament, interests and needs, the influence of adults or other children on the delinquent, the causes and conditions that contributed to commit the crime. Prosecutor obtains this information from above mentioned institutions and uses them for the legal classification of the offense, establish of the penalty or alternative measures, but also in the prevention of juvenile delinquency.

8. National legislation requires the prosecutor to undertake effective measures in the implementation and observance of legislation on protection of child rights and fundamental interests, implementation to the child of the principle of human, appropriate and fair treatment. To this end, the prosecution's efforts are concentrated on protecting rights and fundamental interests of the child, in particular the right to life, physical and mental integrity, to education, employment and social protection, protection from abuse and violence, economic and sexual exploitation. In case of injury to the rights and interests of children prosecutors are involved immediately for child protection, restoring rights and settle causes and conditions that favored the violations of law. Also prosecutor interfere with the reactionary acts in the case of breaching the rights of children in orphanages, pensions and other residential institutions for placement of children with special needs.

Prosecutor under her duties, when identifying children who need special protection and, according to those needs, is entitled to submit in court actions in the interests of the child on the decline of parental rights, taking of child without decline of this rights, child's placement in a residential institution when the child remained without parental care or, in the interest of education, can not be left in the existing family environment and in other cases of damage to children's rights, such as breach of legislation on granting allowances, pensions, social facilities and other aid to children and families with children.

9. National law allows to prosecutor the right to initiate an investigation at its own motion and ex-officio in case of rights violations specified in p.8 (of this letter), including, to start criminal prosecution, even if the victim has not filed a complaint, because of inability or limited exercise capacity, the state of helplessness or dependence on suspect or from other reasons is unable to defend their legitimate rights and interests.

10. In case of identifying children who need special protection and, according to those needs, the prosecutor collaborate and cooperate with institutions in this field.

11. According to her duties Prosecutor's office examines complaints about offenses of abduction by close relatives (**Article 164/1 of the Criminal Code**).

Article 164/1 Criminal Code “abduction of children by close relatives” provides that - *abduction of children by close relatives - is punishable by a fine in the amount of up to 300 conventional units or by non-paid work for the community from 180 to 240 hours, or imprisonment for up to 6 months.*

Complaints about the commission of these crimes are examined by the prosecutors or the police stations from the place where the offense was committed. In examining allegations about crime prosecutor or police criminal prosecution body started criminal proceedings or refuses to start it.

12. It was stated in p. 8.