

Question 6.b.

EDUCATIONAL MEASURES AND SENTENCES FOR JUVENILE PERPETRATORS

Exclusion of Criminal Sanctions Against Children

Article 71

Criminal sanctions shall not be applied against youths under age of fourteen (children) at the time the criminal offence was committed.

Criminal Sanctions Against Juvenile Perpetrators

Article 72

(1) Against a juvenile perpetrator who, at the time of committing the criminal offence had reached the age of fourteen but had not yet reached the age of sixteen (younger minor), only educational measures may be applied.

(2) Under conditions laid down in the present Code, educational measures may be applied against a juvenile perpetrator who by the time of committing of the criminal offence had reached the age of sixteen but had not yet reached the age of eighteen (older minor).

(3) In exceptional cases, a fine or juvenile detention may be imposed on an older minor who is found criminally liable; in addition to this, the revoking of a driving license and banishment from the country may be passed as accessory sentences.

(4) In the event of an educational measure, a fine or juvenile detention being imposed on a juvenile perpetrator, all safety measures, except the bar from performing an occupation, may also be administered.

2. Educational Measures

Types of Educational Measures

Article 74

(1) Educational measures shall include;

- 1) reprimands;
- 2) instructions and prohibitions;
- 3) supervision by social services;
- 4) committal to an educational institution;
- 5) committal to a correctional home;
- 6) committal to an institution for physically or mentally handicapped youth.

(2) Reprimands, instructions and prohibitions or supervision by the social services shall be administered by the court to a juvenile perpetrator when his attention needs to be drawn to

the impropriety of his behaviour and when his education, reform and proper development in his former environment need to be ensured through measures lasting a shorter time and involving appropriate professional guardianship.

(3) Committal to an educational institution, to a correctional home or to an institution for physically or mentally handicapped youth (institutional measures) shall be administered by the court to juvenile perpetrators who need to undergo educational, reform or institutional measures of a longer duration and who need to be wholly or partly separated from their former environment. Institutional measures shall be applied only when the purposes of educational measures cannot otherwise be achieved. The implementation of such measures may be ordered within the limits prescribed by the statute and may continue only as long as is necessary for the purposes of educational measures to be achieved.

Instructions and Prohibitions

Article 77

(1) One or more instructions or prohibitions may be issued by the court to the juvenile perpetrator if he is deemed to be most appropriately dealt with by such measures.

(2) The court may issue following instructions and prohibitions to a juvenile perpetrator:

- 1) to make a personal apology to the injured person;
- 2) to reach a settlement with the injured person by means of payment, work or otherwise in order to recover the damages caused in the course of committing the offence.
- 3) regular attendance at school;
- 4) to take up a form of vocational education or to take up a form of employment suitable to the perpetrator's knowledge, skills and inclinations;
- 5) to live with a specified family or in a certain institution, etc.:
- 6) to perform community service or work for humanitarian organisations;
- 7) to submit himself to treatment in an appropriate health institution;
- 8) to attend sessions of educational, vocational, psychological or other consultation;
- 9) to attend a course of social training;
- 10) to pass an examination on the traffic regulations;
- 11) under conditions applying to adult perpetrators, prohibition from operating a motor vehicle may be enforced;

Juvenile Detention

Article 89

(1) The court may impose a sentence of juvenile detention on an older minor if he has committed a criminal offence for which a sentence heavier than five years' imprisonment is prescribed by the statute and if, owing to the nature and gravity of the crime and the high degree of criminal liability, the application of educational measures would not be reasonable.

(2) A sentence of juvenile detention shall last not less than six months and not more than five years. For criminal offences for which the sentence of twenty years' imprisonment may be

imposed, the sentence of juvenile detention shall not be imposed for more than ten years. The sentence shall be fixed in full years and months.

(3) In fixing a sentence of juvenile detention, the court shall not be bound by the provisions prescribing the lowest limit of the term of imprisonment.