

Creating a specific program for the treatment of minors in
conflict with the law in Albania, from the Faculty of Law,
University of Tirana

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Abstract

In any society, due to their age (up to 18 years), minors constitute one of the most important and vulnerable groups. Thus, their treatment and protection is of particular importance, especially when they break the law and come into contact with criminal justice. Therefore, for the treatment of minors in contact with the law, we must have not only a friendly and functional justice system, but also a set of other actors involved in the process. This means that it is necessary to have special programs aimed at studying and dealing with issues for minors in conflict with the law. Programs, which

are created and operate also at institutions, such as universities, that have a great importance and impact on society.

This project aims to enable the creation in Albania, according to the best practices of the European Union countries, a specific program, with the object of treating minors in conflict with the law.

The Code of Criminal Justice for Minors, the first in the history of Albania, has brought a new approach to the criminal justice system by putting the minor at the center, strengthening the justice system in accordance with the principles of the United Nations Convention on Children's Rights. Approximately five years have passed since the adoption of the Code and there are no institutional structures, special programs or specialized personnel for the treatment of minors in conflict with the criminal law. Therefore, it is intended to create a special program for the treatment of minors in conflict with the law in Albania, from the Faculty of Law, University of Tirana.

Specific Program for the treatment of minors in conflict with the law.

In Albania, steps have been taken in these actions, such as the drafting and approval of the Code of Criminal Justice for Minors, in which several possible elements have been made, such as: criminal responsibility of minors, procedural rules related to the investigation, the criminal prosecution, the judicial process, the execution of the criminal sentence decision, the rehabilitation of any other measure that requires a conflict with the law; the establishment of centers/institutions for the rehabilitation of minors, such as the structure or program of placement of minors should be or not, which should be handled with care and the appropriate personnel to help those who are minors.

However, despite the alignment with the legislation of the European Union, even though approximately five years have passed since the adoption of this Code, there is

a lack of institutional structures, special programs or specialized personnel for the treatment of minors in conflict with criminal legislation.

Likewise, the Center for the Prevention of Juvenile and Youth Crimes, a public legal entity, in the investigation of the Ministry of Justice, in all the requirements of the Criminal Justice Code for Juveniles, has as its main mission the realization of the activity and reintegration through broadcasts and protection of minors after serving the sentence.

This leaves out the criminal risk of a large group of minors, who commit crimes, but were at fault, as they were few in society; have committed a minor criminal offence; or because of their age, they were not criminal, not guaranteeing the effectiveness of the principles of Criminal Justice for Minors.

So, despite the fact that the Juvenile Criminal Justice Code has been in force since 2017, after the reform of the criminal justice system, centers/institutions for the rehabilitation of minors have not yet been established in its implementation, such as structures or programs where convicted minor or not, equipped with the appropriate infrastructure and personnel to meet the special needs of minors in conflict with the law.

This means that, first, the implementation of alternative measures to avoid punishment is not guaranteed; secondly, the effective treatment of minors in conflict with the law, who according to the criminal legislation, are exempted from criminal proceedings or serving a sentence, is not guaranteed. So, in both cases, the non-repetition of criminal offenses by the minor, his reintegration and healthy return to society are not guaranteed.

Even after reviewing the literature or statistics on the criminality of minors, it turns out that the criminal behavior of minors is becoming one of the main factors of the increase in crime in Albania, where 1/3 of all criminal offenses are committed by minors. According to data from the Ministry of Justice, in 2018 alone, almost 38% of final

criminal sentences were given to young people aged 14-30. The criminality of children and minors has become a serious threat not only to the state of children's rights in Albania, who face long judicial processes and are often not treated or treated the same as adults, but also to public safety in society .

The best practices of the European Union countries

This project aims to enable the creation in Albania, according to the best practices of the European Union countries, by the University of Tirana, Faculty of Law, of a specific program, with the object of treating minors in conflict with the law, especially juveniles who, according to the Criminal Code educational measures are taken against them, because they are exempted from punishment, as they have little social danger or have committed a minor criminal offense, or because of their age they do not have criminal responsibility, or according to the Code of Criminal Justice for Minors, we can implement alternative avoidance measures.

For the realization of a specific program, - firstly we should stress in general in the Albanian legal framework, or even in the area of the European Union states, whether a special institutional framework on criminal justice for minors is guaranteed or not, which is in accordance with other international standards and norms that have aimed at the protection of the juvenile and the effective protection of the best interest of the minor.

Secondly, we should stress, if there is a lack of a specific institutional framework on criminal justice for minors in Albania or in the area of the European Union states, who carries out and how the reintegration of juveniles in conflict with the law and the return in society, especially of those who are exempted from punishment, as they have little social danger or have committed a minor criminal offense; due to their age, they do not have criminal responsibility, or alternative measures of avoidance are applied to them.

At the same time, through this process, the urgent need for the creation of a specific structure for the reintegration of minors in conflict with the law in Albania is evident, as a guarantee for the re-socialization and rehabilitation of juveniles who have committed a criminal offense.

Thirdly, according to the best practices of the states of the European Union, the architecture of such a pilot program will be designed at the University of Tirana, with its most important elements, such as purpose, organization chart, structure, division of work, communication, decision-making and communication, human and financial resources.

The primary beneficiaries of this program are minors in conflict with the law, who, according to criminal legislation, are exempt from criminal proceedings or serving a sentence. Because they are of low social risk or have committed a minor criminal offense, due to their age they do not have criminal responsibility, or according to the Juvenile Criminal Justice Code, alternative avoidance measures are applied. As well as their need to be treated, in accordance with their situation, with the aim of not repeating criminal offenses, their reintegration and healthy return to society.

The special system for the exclusion of minors in the criminal process:

It is known that for minors in conflict with the law, their involvement as little as possible in the criminal process is considered an effective protective measure for the development of their personality and avoiding the creation of trauma. This special type of system, which is applied in countries like the Netherlands, is left to the Prosecutor, who has the duty to implement this system for minors in conflict with the law, avoiding imprisonment, detention, etc. This special measure is applied in cooperation with the minor's family members, as well as in certain cases with the cooperation with the victim

of the criminal offense. The purpose of the measure is to prevent repetition, the negative influence of the minor by his peers, as well as to facilitate his/her reintegration into society.

All these measures will have to be in full compliance with the special characteristics and needs of the minor, offering continuous help through other professionals, such as psychologists specialized in juvenile justice, social workers, as well as to a psychiatrist if the minor suffers from some type of specific pathology.

An Individualized Educational Plan will be drawn up for every minor in conflict with the law. The plan must be individualized to meet the needs and enable the minor to complete it successfully. The plan must be detailed and must foresee the involvement of the minor and his family, taking into account their personal and social circumstances. Alternative measures that meet the diverse needs of juveniles in conflict with the law must be chosen.

Conclusions

The specific program for minors in conflict with the law aims to prevent recidivism and the commission of other crimes, through an educational intervention aimed at increasing the awareness of minors and encouraging them to take responsibility for the offense committed.

The consolidation of good practices of avoiding minors from criminal prosecution and the implementation of all alternative avoidance measures provided by the the Juvenile Criminal Justice Code with a focus on strengthening restorative justice and mediation programs for minors in conflict with the law and good management of cases of children in contact or in conflict with the law from the group of responsible persons.

References

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