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*\*Please note that this translation is missing the following amendments to the Act:*

- *Official Gazette no. 27/1998*
- *Official Gazette no 12/2002*

## **JUVENILE COURTS ACT**

(Official Gazette no. 111/1997)

### **PART ONE**

#### **INTRODUCTORY PROVISIONS**

*Contents of the Act*

##### **Article 1**

This Act contains provisions of substantive criminal law, provisions on courts, provisions of criminal procedural law and provisions on enforcement of sanctions, all applicable to young perpetrators of criminal offences (minors and young adults), as well as rules on criminal-law protection of children and minors.

*Age of the Offender*

##### **Article 2**

A minor shall be a person whose age, at the time when the offence was committed, was between fourteen and eighteen, and a young adult shall be a person whose age, at the time when the offence was committed, was between eighteen and twenty one.

*Application of the General Law*

##### **Article 3**

The provisions of the Penal Code, Criminal Procedure Act, Courts Act, Protection of Persons with Mental Disorders Act, laws governing the enforcement of sanctions for criminal offences and other general regulations shall be applied only if not regulated otherwise by this Act.

**PART TWO****MINORS****I. Criminal-law Provisions****1. General Provisions***Types of Sanctions***Article 4**

(1) Sanctions to be imposed on minors for the offences committed shall be correctional measures, juvenile imprisonment and safety measures.

(2) Only correctional measures may applied to a minor who at the time when he or she committed an offence was between fourteen and sixteen years of age (junior minor).

(3) Correctional measures may be applied to a minor who at the time when he or she committed an offence was between sixteen and eighteen years of age (senior minor) and, under the conditions provided for by this Act, he or she may be sentenced to juvenile imprisonment.

(4) Safety measures may be applied to minors only under the conditions provided for by this Act.

*Purpose of Correctional Measures and Juvenile Imprisonment***Article 5**

Within the general purpose of criminal-law sanctions (Article 6 of the Penal Code), the purpose of juvenile sanctions shall be to influence a minor offender's education, development of his or her entire personality and strengthen his or her personal responsibility by offering him or her protection, care, assistance and supervision, as well as possibilities for general and professional education.

**2. Correctional Measures***Types of Correctional Measures***Article 6**

(1) Correctional measures shall be:

1. court reprimand,
2. special obligations,
3. referral to a correctional centre,
4. intensified care and supervision,
5. intensified care and supervision with daily stay in a correctional institution,
6. referral to a correctional institution,
7. referral to a reformatory,
8. referral to a special correctional institution.

(2) Correctional measures referred to in Items 1 to 3 of the Paragraph 1 above, shall be applied when it is necessary to influence the minor's personality and behaviour by measures of admonition, guidance and other appropriate measures, while correctional measures referred to in Items 4 and 5 (measures of intensified supervision) shall be applied when, for the purpose of the minor's upbringing and development, it is necessary to undertake measures of a more permanent nature with appropriate professional supervision and assistance, and when it is not necessary to separate him or her from the surroundings in which he or she had been living up to then.

(2) Correctional measures referred to in Items 6 to 8 of the Paragraph 1 above (reformatory measures), shall be applied when it is necessary to subject a minor to more permanent and intensive correctional measures or measures of treatment, which shall be accompanied by his or her separation from the surroundings in which he or she has been living up to then. The reformatory measures shall be applied as measures of last resort and may last, within the limits specified by this law, only for the period necessary to achieve the purpose of correctional measures.

#### *Choice of a Correctional Measure*

#### Article 7

In the selection of a correctional measure, the court shall take into account the minor's age, his or her physical and mental development, his or her mental traits and personal inclinations, seriousness and nature of the offence committed, motives for, and circumstances in which he or she committed the offence, his or her behaviour after committing the offence, and especially, whether he or she tried to prevent the occurrence of damage or made efforts to undo the damage; his or her living conditions, health condition, family circumstances, education and upbringing; whether he had a criminal record before committing that offence, whether he had been sentenced to a juvenile sanction; as well as all circumstances that may affect the choice of such correctional measure by which the purpose of correctional measures will best be achieved.

#### *Court Reprimand*

#### Article 8

(1) A court reprimand shall be issued when the minor's attitude toward the offence committed, as well as his or her willingness never to commit any offences again indicate that the reprimand itself will accomplish the purpose of correctional measures.

(2) In issuing a reprimand, the court shall demonstrate to the minor the social unacceptability and harmfulness of his or her behaviour and the consequences of such behaviour for him or her. The court shall also warn the minor that in case of a repeated offence, a more severe sanction may be imposed on him or her.

#### *Special Obligations*

#### Article 9

(1) The court may order to a minor to fulfil one or more special obligations, if it assesses that appropriate orders or prohibitions are needed to influence the minor and his or her behaviour.

(2) The court may order to a minor to fulfill any of the following obligations:

- 1) to apologise to the injured party,

2) to repair or make compensation for the damage done by the offence, according to his or her own abilities,

3) to attend school regularly,

4) not to be absent from the workplace,

5) to become trained for an occupation that suits his or her abilities and inclinations,

6) to accept employment and persist in it,

7) to get involved in the work of humanitarian organisations or in the activities of having relevance for the community or for the environment,

8) to refrain from visiting particular places or entertainment events and to stay away from particular persons who have detrimental effect on him or her,

9) to undergo, with prior consent of his or her legal representative, a professional medical treatment or treatment for drug addiction or other addictions,

10) to get involved in individual or group work in youth counselling services,

11) to participate in trainings for acquisition of professional qualifications,

12) not to leave, for a longer period of time, the place of his or her permanent or habitual residence, without special approval obtained from the centre of social welfare,

13) to have his or her knowledge of traffic regulations tested in the competent institution for drivers' education.

(3) In selecting particular obligations, the court shall also take account of the minor's willingness to co-operate in the fulfilment of such obligations and it shall make sure that they are suitable to the minor and conditions in which he or she lives.

(4) The obligations ordered may not last longer than one year.

(5) The obligations ordered may subsequently be modified or revoked, partly or fully, by the court.

(6) With regard to the obligation referred to in Paragraph 2, Item 2 above, the court shall determine the scope, forms and manner of undoing or compensating for the damage, but personal work of the minor may not last longer than sixty hours within three months, and shall be distributed in such a way that it does not interfere with the minor's education or employment.

(7) With regard to the obligation referred to in Paragraph 2, Item 7 above, the court may decide that the minor works not more than one hundred and twenty hours in the period of six months, and that it be organised in such a way that it does not interfere with the minor's education or employment.

(8) The centre of social welfare shall watch over the fulfilment of obligations. The fulfilment of obligations referred to in Paragraph 2, Items 2, 7 and 9 above shall be monitored by the centre of social welfare, under the supervision and with the participation of the court.

(9) In determination of obligations referred to in Paragraph 2 above, the court shall particularly warn the minor that his or her failure which would be his or her fault, to fulfil these obligations may result in his or her referral to a correctional centre.

#### *Referral to a Correctional Centre*

##### Article 10

(1) The court shall apply a measure of a referral of a minor to a correctional centre when it assesses that in order to achieve the purpose of correctional measures, it is necessary to influence his or her personality and behaviour by resorting to appropriate short-term measures.

(2) The minor to whom the measure referred to in Paragraph 1 above was applied can be referred by the court to the centre:

- for a specific number of hours during the day, such arrangement lasting at least fourteen days, but not more than thirty days,
- for continuous stay lasting at least fifteen days, but not more than three months.

(3) In applying the measure referred to in Paragraph 1, care shall be taken that, because of its implementation, the minor is not absent from school or workplace.

(4) The minor's stay in the centre shall be filled with activities appropriate to his or her character, learning activities, useful work appropriate to his or her abilities and interests, as well as other educational programmes aimed at the development of his or her sense of responsibility.

(5) During the implementation of the measure the court may modify the previously made decision and order to the minor to stay uninterruptedly in the centre for a specific number of days, or to stay there for a specific number of hours per day, or to shorten or prolong the duration of uninterrupted stay in the centre or duration of the stay in the centre for a specific number of hours.

(6) The court may combine the decision on referral to a correctional centre with the pronouncement of the measure of intensified supervision.

#### *Intensified Care and Supervision*

##### Article 11

(1) Intensified care and supervision shall be ordered when the court assesses that the parent's or guardian's influence on the upbringing, behaviour and development of the minor's personality is not sufficient to accomplish the purpose of correctional measures, and that it is necessary to undertake correctional measures of a more permanent nature under the care and supervision of the competent service.

(2) The service competent for implementation of the intensified care and supervision shall appoint an expert person who shall, in co-operation with the minor, his or her parents, guardian, social welfare and education authorities, physicians and other professionals, exert continuous influence on the personality and behaviour of the minor, take care of his or her treatment and supervise the fulfilment of his or her obligations and duties.

(3) After pronouncing this measure, the court shall give to the parents or guardian special instructions and lay them under an obligation to co-operate with the expert person with regard to all matters which may arise.

(4) The court shall later on make a decision on the duration of this measure. Such duration may not be shorter than six months nor longer than two years.

(5) When pronouncing this correctional measure, the court may also order to the minor to fulfil one or more special obligations (Article 9), if that would be necessary for a more effective implementation of the measure pronounced.

(6) When the service competent for implementation of intensified care and supervision finds out that parents do not follow special instructions and do not co-operate with the expert person, it shall inform the (public) prosecutor about that.

*Intensified Care and Supervision with Daily Stay  
in a Correctional Institution*

Article 12.

(1) Intensified care and supervision combined with daily stay in a correctional institution shall be ordered when the court assesses that, in order to achieve the purpose of correctional measures with regard to a minor, it is necessary to undertake more permanent and intensive correctional measures, especially by means of education and professional training under the supervision of youth counsellors and other professionals, and that, at the same time, complete and permanent separation of that minor from his or her earlier surroundings is not necessary .

(2) The court shall later decide on the duration of this correctional measure, and such duration may not be shorter than six months nor longer than two years.

(5) When pronouncing this correctional measure, the court may also order to the minor to fulfil one or more special obligations (Article 9), if that would be necessary for a more effective implementation of the measure pronounced.

*Referral to a Correctional Centre Because of a Failure to Fulfil  
Special Obligations or Duties*

Article 13

If a minor, through a fault of his or her own, fails to fulfil special obligations ordered to him or her, or if he or she rejects, or in other ways interferes with the implementation of the measure of intensified supervision, the court may decide that, for this reason, he or she be referred to a correctional centre for uninterrupted stay not exceeding one month.

*Referral to a Correctional Institution*

Article 14

(1) The court shall refer a minor to a correctional institution when it is necessary to separate him or her from the surroundings in which he or she lives and, with the assistance, care and supervision of youth counsellors and other professionals, make sure that a more permanent

influence is exerted on his or her personality, development and upbringing, particularly with regard to his or her education and vocational training.

(2) This correctional measure can be implemented in small housing units linked with educational, labour, entertainment, sports and other facilities of these communities.

(3) A minor shall stay in a correctional institution for at least six months, but not more than two years, and the court shall every six months consider whether there are any grounds to suspend the execution of this measure or replace it by another correctional measure (Article 17, Paragraph 2).

#### *Referral to a Reformatory*

#### Article 15

(1) The court shall refer a minor to a reformatory when it is necessary to separate him or her from his or her earlier surroundings, and when, because of the minor's noticeable behaviour disorders and insufficient willingness to accept correctional influence, he or she shall be subjected to intensified correctional measures. When making a decision to apply this measure, the court shall pay special attention to the seriousness and nature of the offence committed and shall see whether the minor has a record of correctional measures or juvenile imprisonment.

(2) A minor shall stay in a reformatory for at least six months, but not more than three years, and the court shall every six months consider are there any grounds to suspend the execution of this measure or replace it by another correctional measure (Article 17, Paragraph 2).

#### *Referral to a Special Correctional Institution*

#### Article 16

(1) The court may refer a minor with psycho-physical impairments to a special correctional institution, rather than to a correctional institution or reformatory.

(2) This measure can also be applied instead of the safety measure of mandatory psychiatric treatment, if the special correctional institution can provide treatment for the minor, enabling, thus, the achievement of the purpose of this safety measure.

(3) The minor shall stay in the special correctional institution as long as it is necessary for his or her treatment, protection or training, but not longer than three years. If the minor attains majority during the execution of this measure, an assessment shall be made as to whether it is necessary for him to stay on in that institution.

(4) Every six months the court shall consider if it is necessary to continue with the execution of this correctional measure.

#### *Suspension of Execution and Amendment of the Decision on a Correctional Measure*

#### Article 17

(1) If, after the decision on applying a correctional measure was made, some new circumstances have arisen which did not exist or were not known at the time when that decision was

made, and if such circumstances would have evidently influenced the choice of the measure, the court may suspend the execution of the measure applied or replace the measure pronounced by another measure.

(2) The court may, during the execution of a correctional measure and having regard to the success achieved, suspend the enforcement of the correctional measure or replace it by a measure by which the purpose of correctional measures would be better accomplished, but with the following limitations:

1) the measure of intensified care and supervision combined with daily stay in a correctional institutions may not be suspended, nor replaced by another measure before the period of six months has expired,

2) the measure of referral to a correctional institution may not be suspended before the period of six months has expired, and within that period it can be replaced only by the measure of intensified care and supervision combined with daily stay in a correctional institution or referral to a reformatory or special correctional institution,

3) the measure of referral to a reformatory may not be suspended before the period of six months has expired, and within that period it can be replaced only by referral to a correctional institution or by referral to a special correctional institution.

*Effect of Juvenile Imprisonment and (Adult) Imprisonment on the Execution of a Correctional Measure*

Article 18

If a person is, after having been sentenced to a correctional measure or during the execution of such measure, sentenced to juvenile imprisonment or (adult) imprisonment lasting for at least one year, the execution of the correctional measure shall not start, and if it has already started, it shall be suspended as soon as the offender starts to serve his or her prison sentence. If the sentence to (adult) or juvenile imprisonment is shorter than one year, the court shall specify in its judgement whether the execution of the correctional measure will start or continue after the (prison) sentence is served, or the correctional measure will be revoked.

*Re-deciding on a Correctional Measure*

Article 19

(1) If more than one year has elapsed since the time when a correctional reformatory measure became final, and if more than six months have elapsed since the time when a decision on other correctional measure became final - without the execution of such sentences being even initiated - the court shall make a new decision as to whether it is necessary to enforce the said measure. In doing so, the court may decide that the measure pronounced be either executed or not executed or replaced by another measure.

(2) The court shall act in the same way also in the case when the execution of a reformatory measure actually started, but, because of the minor's escape from the reformatory or for another reason, that measure has not been enforced for more than one year.

*Conditional Release During the Execution  
of a Reformatory Measure*

Article 20

(1) The court may conditionally release a minor to whom a reformatory measure was applied if such measure has been enforced for at least six months. The court may make such a decision only when, on the basis of the success achieved by the minor, there is reasonable expectation that he or she will exhibit good behaviour, continue with his or her education or work, and that he or she will not commit criminal offences in the community where he or she will live.

(2) The court may decide that during conditional release the measure of intensified supervision be imposed on a minor.

(3) The court may revoke the conditional release if the minor commits a new offence, shuns school or job, does not comply with the obligations imposed by the measure of intensified supervision, or if he or she behaves so badly in the community where he or she lives that there is definitely no justification for his staying outside the reformatory. In that case the time spent on conditional release shall not be reckoned in the duration of the correctional measure (Article 14, Paragraph 3, Article 15, Paragraph 2 and Article 16, Paragraph 3).

(4) The conditional release shall last no longer than by the expiry of the statutory duration of that reformatory measure or until the court revokes the execution of this measure or replaces it by another measure.

*Application of Correctional Measures in Case of  
Concurrent Criminal Offences*

Article 21

(1) In case of concurrent criminal offences which the court has decided to punish by correctional measures, the court shall apply only one correctional measure.

(2) The court shall also act under Paragraph 1 above when it finds out, before or after the correctional measure has been pronounced, that the minor has committed a criminal offence.

*Data from the Correctional Measures Records*

Article 22

The data contained in the records on applied correctional measures may be given only to the public prosecution service and the court for the purpose of the new criminal proceeding involving a registered person, as well as to the authorities in charge of execution of a correctional measure.

### 3. Juvenile Imprisonment

#### *Specific Quality of Juvenile Imprisonment*

##### Article 23

(1) Juvenile imprisonment is the punishment of deprivation of liberty that has some particularities with regard to the conditions in which it is imposed, its duration, purpose and substance.

(2) Juvenile imprisonment can be imposed on a senior minor for a criminal offence for which the law provides a five-year prison sentence or a more severe punishment, if it is necessary to impose that punishment because of the nature and seriousness of the offence and because of the high degree of guilt.

#### *Deciding on the Length of Juvenile Imprisonment*

##### Article 24

(1) Juvenile imprisonment may not be shorter than six months nor longer than five years, and its length shall be determined in full years and months. However, in case of a criminal offence carrying a long-term imprisonment or in case of two concurrent criminal offences carrying sentence of imprisonment of over ten years, juvenile imprisonment may last for up to ten years.

(2) Juvenile imprisonment may not be imposed for a longer period than that provided by law for the offence committed, but the court shall not be obliged to apply the minimum term prescribed for that punishment.

(3) In deciding on the length of juvenile imprisonment, the court shall have regard to all circumstances affecting the length of the sentence (Article 56, Paragraph 2 of the Penal Code), and shall, in so doing, pay special attention to the level of maturity of the minor, time needed for its upbringing, education and professional training. However, the sentence may, depending on the degree of guilt, also be shorter, if such shorter sentence would be sufficient in order to achieve the purpose of punishment.

#### *Imposing Juvenile Imprisonment in Case of Concurrent Criminal Offences*

##### Article 25

(1) In case of concurrent criminal offences the court shall impose a single sentence of juvenile imprisonment, having in mind the limitations provided for by Article 24, Paragraph 1 of this Act, without prior determination of punishment for each particular offence. If the court deems that for one offence the minor should be imposed a punishment, and for other offences he or she should be subjected to a correctional measure, it shall impose only the punishment of juvenile imprisonment.

(2) When, after imposing a punishment of juvenile imprisonment on a minor, the court finds out that the minor committed another offence, either before or after the punishment was imposed, it shall act in accordance with the provision of Paragraph 1 above.

#### *Conditional release from a Juvenile Prison*

## Article 26

(1) The minor sentenced to juvenile imprisonment may be conditionally released if he or she has served at least one third of the sentence, but not before he or she has spent six months in the penal institution. During the conditional release the court may issue the measure of intensified supervision. The conditional release shall last until the expiry of the period for which the sentence was imposed.

(2) The court shall revoke conditional release if the convict, while being on such discharge, commits one or more criminal offences carrying the sentence of unconditional imprisonment or juvenile imprisonment of six months or more.

### *Reservation of the Right to Impose the Sentence of Juvenile Imprisonment*

## Article 27

(1) The court may, in its judgement, find a minor guilty of a criminal offence, reserving at the same time the right not to impose the sentence of juvenile imprisonment on him or her when it deems that, by pronouncing the minor guilty and by putting him or her under the threat of subsequent imposition of the sentence, the minor may be deterred from committing other criminal offences. The court shall subject the minor to the measure of intensified supervision and shall impose on him or her one or more special obligations.

(2) The court shall state in its judgement that the minor may later on be sentenced to juvenile imprisonment if he or she, during the period specified by the court which may not be shorter than one year and longer than three years (trial period), commits another criminal offence or opposes the execution of correctional measures.

(3) The court may, after the expiry of at least one year of the trial period and after having debriefed a centre of social welfare's representative, make its final reservation as to the imposing of the punishment, if the new facts confirm the belief that the minor is not going to commit any new offences.

### *Subsequent Imposing of the Sentence of Juvenile Imprisonment*

## Article 28

(1) If the minor with respect to whom the court has reserved its right not to impose the sentence of juvenile imprisonment (Article 27) is convicted or subjected to a correctional measure for another criminal offence committed before the expiry of the trial period, the court shall impose on him or her the sentence for the previously committed criminal offence if, having in mind the newly imposed sentence or correctional measure, such an action would be necessary in order to deter the minor from committing additional criminal offences. The sentence for the previously committed criminal offence may also be imposed if the minor, disregarding explicit warnings issued by the court, refuses to fulfil special obligations, or if he or she persistently opposes the execution of the imposed correctional measure.

(2) In imposing a single punishment, recourse shall be had to the provisions on determination of the length of sentence for concurrent criminal offences.

(3) If, in case referred to in Paragraph 1 above, the court does not impose any sentence, it shall make a decision as to whether the already issued correctional measures will continue to be in force, or it will issue other measures.

(4) The sentence may be subsequently imposed no later than within six months after the expiry of the trial period or after the termination of the proceedings for the new criminal offence.

*Statute of Limitations for the Enforcement of the Sentence of Juvenile Imprisonment*

Article 29

The sentence of juvenile imprisonment shall not be enforced after the expiry of any of the following periods:

- five years since the decision on juvenile imprisonment lasting more than five years became final,
- three years since the decision on juvenile imprisonment lasting more than three years became final,
- two years since the decision on juvenile imprisonment lasting less than three years became final.

4. Safety Measures

*Application of Safety Measures to Minors*

Article 30

Apart from correctional measure or juvenile imprisonment, minor offenders may also be subjected to safety measures of mandatory psychiatric treatment, mandatory treatment for drug addiction, expulsion of a foreigner from the country and seizure of an object; a senior minor may also be subjected to a safety measure of prohibition to operate a motor vehicle.

5. Special Provisions on the Statute of Limitations for Criminal Proceedings and on Substantive-law Purposefulness

*Offence Committed When the Offender was a Junior Minor*

Article 31

(1) An adult person who has reached twenty one years of age may not be tried for a criminal offence committed when he or she was a junior minor.

(2) An adult person who is, during the trial, under twenty one years of age may be tried for a criminal offence committed by him or her when he or she was a junior minor only if the committed offence carries a punishment of imprisonment of more than five years. The court may sentence that person just to a reformatory correctional measure. In deciding whether it will pronounce any sentence and, if yes, what sentence it will pronounce, the court shall take into account all the circumstances that existed at the time when the offence was committed, and particularly the

seriousness and nature of the offence, the time that has elapsed since the commission of that offence, behaviour of the perpetrator, his or her family circumstances, how the perpetrator has been reintegrated into normal life and what was the purpose of the measure. The pronounced measure may last until the perpetrator turns twenty three years of age.

*Offence Committed When the Offender was a Senior Minor*

Article 32

(1) For a criminal offence committed by an adult person when he or she was a senior minor, he or she may be subjected to a correctional measure of special obligations, correctional measure of intensified supervision and to juvenile imprisonment, and if the perpetrator has not reached the age of twenty one, he or she may also be subjected to a correctional measure in a reformatory. In deciding whether it will pronounce any sentence and, if yes, what sentence it will pronounce, the court shall take into account all circumstances that existed at the time when the offence was committed, and particularly the seriousness and nature of the offence, the time that has elapsed since the commission of that offence, behaviour of the perpetrator, his or her family circumstances, how the perpetrator has been reintegrated into normal life and what was the purpose of the measure. The pronounced measure may last until the perpetrator turns twenty three years of age.

(2) As an exception from Paragraph 1 above, an adult person who has in the course of the trial reached twenty one years of age, may be sentenced by the court to imprisonment instead of juvenile imprisonment. A person who has, in the course of the trial, reached twenty three years of age shall be sentenced by the court to imprisonment instead of juvenile imprisonment. Imprisonment shall, with regard to rehabilitation and legal consequences of the sentence, have the same legal effect as juvenile imprisonment.

6. Delivery of the Judgement

Article 33

Provision of Article 83 of the Penal Code on public delivery of judgements shall not apply to minor perpetrators of criminal offences.

**II. Provisions on Courts and Criminal-proceedings Provisions**

A. JUVENILE COURTS

1. General Provisions

Article 34

Juvenile courts shall have jurisdiction over criminal cases involving minors (Article 36, Paragraphs 1 and 2).

Article 35

Jurisdiction of a juvenile court over a minor offender shall cease when such minor reaches twenty three years of age.

2. Organisation of Juvenile Courts

## Article 36

(1) In municipal courts located in the places where county courts have their seats, as well as in county courts themselves, juvenile divisions shall be established. Juvenile divisions shall be composed of juvenile panels (Article 57, Paragraphs 1 and 2) and juvenile judges (Article 57, Paragraph 6).

(2) In the Supreme Court a juvenile panel shall be constituted. (Article 57, Paragraph 3).

## Article 37

Juvenile judges in municipal and county courts, as well as public prosecutors appearing before these courts (public prosecutors for juveniles) shall have strong inclinations towards upbringing, needs and benefits of the youth, and shall have basic knowledge of criminology, social pedagogy and social welfare for young persons.

## Article 38

Juvenile judges in municipal and county courts shall be appointed for a term of office of five years from the ranks of the judges sitting in these courts by the President of the Supreme Court. Public prosecutors for juveniles shall be appointed for a term of office of five years from the ranks of public prosecutors and deputy public prosecutors in respective public prosecution services by the Public Prosecutor of the Republic of Croatia. After the expiry of five years a judge or a public prosecutor or a deputy public prosecutor may be re-appointed as a juvenile judge or a public prosecutor for juveniles, respectively.

## Article 39

Judges sitting in the juvenile panel of the Supreme Court of the Republic of Croatia shall be indicated in the annual assignment schedules of the Supreme Court of the Republic of Croatia. A Deputy Public Prosecutor to appear before that panel shall be indicated in the annual assignment schedules of the Public Prosecution Service of the Republic of Croatia.

## Article 40

(1) Lay judges for juveniles shall participate in trials conducted by juvenile panels (Article 36, Paragraphs 1 and 2).

(2) Lay judges for juveniles shall be appointed from among high school and primary school teachers, youth counsellors and other persons having experience in the upbringing of young persons.

## Article 41

In every juvenile division of the county court there shall be an investigatory judge appointed by the president of the county court concerned by annual assignment arrangements.

## Article 42

(1) The courts referred to in Article 36, Paragraph 1 of this Act and public prosecution services appearing before them shall have expert assistants (advisers): social pedagogues-special educator teachers and social workers.

(2) Expert assistant in the courts shall, during the pre-trial proceedings, collect information on the minor's personality; give, at the panel's in chamber session or at the trial, expert opinion on the type of sanction that should be imposed; collect information on the effectiveness of the execution of a correctional measure; and give to the juvenile panel an opinion as to whether it is necessary to revoke or replace a correctional measure. Advisers in a public prosecution service shall collect the information needed by the public prosecutor in order to make a decision as to whether it is purposeful to institute proceedings against a minor, and whether it is reasonable to propose that pre-trial proceedings against a minor be dropped.

## B. PROCEEDINGS AGAINST MINORS

### 1. General Provisions

#### Article 43

(1) In the proceedings against a minor perpetrator of a criminal offence who, at the time when the proceedings were instituted was under twenty three years of age, the provisions of this Act shall be applicable, together with the provisions of the Penal Code if they are not contrary to the provisions of this Act.

(2) The provisions of Article 48, Paragraphs 1 and 2, Article 49, Paragraphs 2 and 3, Articles 50, 51, 72, 83 and Article 84, Paragraph 1 of this Act shall not apply in the proceedings against a perpetrator who, at the time when the proceedings were instituted or when the trial started, was over twenty one years of age.

#### Article 44

When, during the proceedings, it is established that a person concerned was, at the time when the criminal offence was committed, under fourteen years of age (a child), criminal proceedings shall be dropped and the information on the offence and on the perpetrator shall be submitted to the centre of social welfare.

#### Article 45

(1) Criminal proceedings against a minor shall, with respect to all criminal offences, be instituted only at the request of the public prosecutor.

(2) With regard to criminal offences for which the proceedings may be instituted by a motion to indict<sup>1</sup> or by charges brought by private individuals, such proceedings may be instituted

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<sup>1</sup> Translator's note: prijedlog, i.e. optužni prijedlog, see Article 156 of the Criminal Procedure Act:

(1) The investigating judge may agree with a proposal by the State's Attorney not to carry out an investigation if obtained information concerning the offender and crime for which the law prescribes a punishment of imprisonment for not more than fifteen years provides enough basis for not filing a motion to indict.

(2) Consent from Paragraph 1 of this Article may only be given by the investigating judge if before this, he or she interrogated the person against whom charges must be brought and if this person gave his or her consent. Regarding serving a subpoena and interrogating this person, the provisions on serving a subpoena and interrogating the defendant shall apply. Notification of consent shall be sent by the investigating judge to the State's Attorney and to the person against whom the charges must be brought.

(3) The term for bringing charges is eight days but the county court panel (Article 20. Paragraph 2) may prolong that term.

only if the authorised person put filed a motion with the competent public prosecutor within three months of the date when he or she came to know about the criminal offence concerned and the perpetrator of that offence.

#### Article 46

In the criminal proceedings against a minor, the injured party can not act as prosecutor.

#### Article 47

The provisions of the Criminal Proceedings Act governing summary procedure shall not be applicable in the criminal proceedings against a minor.

#### Article 48

(1) A minor may not be tried *in absentia*.

(2) In interrogating a minor or in taking other actions in the presence of a minor, special consideration shall be given to making sure that the conduct of the criminal proceedings is, having in mind the level of mental development and personal traits of the minor, not detrimental to the development of his or her entire personality.

#### Article 49

(1) A minor may have a defence counsel when the public prosecutor makes non-institution of proceedings conditional upon the minor's fulfilment of an obligation (Article 64).

(2) A minor shall have a defence counsel already at the first interrogation, if the proceedings are conducted for a criminal offence carrying the punishment of imprisonment longer than three years, and as to other criminal offences carrying a more lenient punishment - if the juvenile judge assesses that the minor needs a defence counsel.

(3) If, in cases referred to in Paragraph 2 above, the minor himself or herself, his or her legal representative or members of his family do not hire a defence counsel, the juvenile judge shall *ex officio* provide one to him or her.

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(4) The proposal from Paragraph 1 of this Article may be put forth by the State's Attorney after the motion for an investigation was filed up until the time a decree deciding on the motion is passed.

(5) If the investigating judge believes conditions for bringing charges directly are not met or if the term from Paragraph 3 of this Article elapsed, he or she shall act as if the motion for an investigation was filed.

(6) If for this crime the law prescribes punishment by imprisonment for not more than ten years, the State's Attorney may, in addition to the conditions prescribed in Paragraphs 1 to 5 of this Article bring charges without carrying out an investigation if information is obtained which provides enough basis to indict the offender. Before bringing charges, the State's Attorney may file a motion with the investigating judge that certain investigatory actions be undertaken. If the investigating judge does not agree to that motion, he or she shall request that the panel of the county court decide on this. (Article 20. Paragraph 2)

(7) Annexed to the motion from Paragraph 1 of this Article and annexed to the charges brought in Paragraph 6 of this Article, the State's Attorney shall provide the entire file and all records on actions undertaken as well as objects which may serve to determine facts or he or she shall designate their location.

(4) When no conditions exist for mandatory defence, the juvenile judge may provide a defence counsel to the minor whose income status is such that he or she is not able to cover the costs of defence by himself or herself. The judge shall do that at the request of the minor or of his or her legal representative or a member of his or her family.

(5) A defence counsel shall, if possible, be appointed from among the attorneys-at-law who have strong inclinations towards, and basic knowledge about the upbringing and welfare of young persons.

(6) A minor may be defended only by an attorney-at-law.

#### Article 50

(1) A minor shall be summoned through his or her parents, or legal representative, save when it is not possible because of a need to take urgent actions or other circumstances.

(2) A minor shall be brought by police officers in civilian clothes, except for the cases of dangerous perpetrators or gravest criminal offences.

(3) The service of decisions or other communications to a minor shall be made in accordance with Article 147 of the Criminal Proceedings Act, but no decisions shall be served to a minor by posting them on the court's notice board, nor shall the provision of Article 143, Paragraph 2 of the Criminal Proceedings Act be applicable.

#### Article 51

Juvenile courts shall inform centres of social welfare when the facts and circumstances established during criminal proceedings indicate that it is necessary to undertake measures for the protection of the minor's rights and well-being.

#### Article 52

(1) In the proceedings against a minor the representative of a centre of social welfare shall, apart from exercising the powers explicitly provided for by this Act, also have the right to be informed about the course of the proceedings, and shall, during such proceedings, make proposals and give warnings about the facts and evidence which are important for making a right decision.

(2) The public prosecutor shall notify the competent centre of social welfare of any proceedings instituted against a minor.

#### Article 53

No one may be exempted from the duty to give evidence about the circumstances needed in order to assess the level of a minor's mental development and provide information on his or her personality and circumstances in which he or she lives (Article 70).

#### Article 54

The authorities participating in the proceedings against a minor, as well as other authorities and institutions from which information, reports or opinions are requested shall act with maximum urgency in order that the proceedings may be finalised as soon as possible.

## Article 55

(1) No information on the course of the criminal proceedings against a minor or decision issued in such proceedings may be disclosed without the court's approval.

(2) Only the information about the part of the proceedings, and only the part of the decision for which approval has been given may be disclosed. However, in that case it is not allowed to state the minor's name and other information on the basis of which the identity of the minor concerned might be revealed.

## 2. Jurisdiction and Composition of the Court

### Article 56

Trials of criminal-law cases involving minors under the jurisdiction of all municipality courts from the area of one county court shall be within the jurisdiction of the municipality court located in the place where that county court has its seat.

### Article 57

(1) The juvenile panel of a municipality court shall be composed of one juvenile judge and two lay judges for juveniles.

(2) The juvenile panel of a county court shall be composed of one juvenile judge and two lay judges for juveniles, and when it hears a second-instance case, it shall be composed of two judges (of which at least one shall be a juvenile judge) and three lay judges for juveniles.

(3) The juvenile panel of the Supreme Court of the Republic of Croatia be composed of three judges, and when it hears a second-instance case, it shall be composed of two judges and three lay judges for juveniles; when it administers justice in the third instance and in the cases of extraordinary legal remedies, it shall be composed in accordance with general regulations.

(4) Lay judges sitting in a juvenile panel shall be persons of both sexes.

(5) The juvenile panel of a county court and the juvenile panel of the Supreme Court of the Republic of Croatia shall, in the composition prescribed by Paragraphs 2 and 3 above, hear appeals and administer justice in other cases provided for by this Act.

(6) A juvenile judge of a municipality court or of a county court shall conduct a pre-trial proceedings and carry out other activities in the proceedings against minors.

### Article 58

The court having jurisdiction to hear the second-instance cases shall decide appeals against the decisions made by juvenile panels of the first-instance courts and about appeals against the rulings issued by public prosecutors and by juvenile judges in the cases specified by this Act, as well as in the cases for which this Act and the Criminal Proceedings Act provide that they should be heard by a juvenile panel of a higher court.

## Article 59

The court in the place of minor's permanent residence, and if the minor has no permanent residence, or if his or her permanent residence is unknown, the court of his or her habitual residence shall, as a rule, have territorial jurisdiction over criminal proceedings against him or her. In case of a minor who has permanent residence, the proceedings may be instituted before the court of his or her habitual residence or before the court in the place where the offence was committed, if it is evident that it would be easier to conduct proceedings before that court.

### 3. Separate and single proceedings

#### Article 60

(1) When a minor participated in the commission of a criminal offence together with an adult person, the proceedings against him or her shall be separated and conducted in accordance with the provisions of this Act.

(2) The proceedings against a minor may, as an exception, be merged with the proceedings against an adult and conducted in accordance with the provisions of the Criminal Proceedings Act, but only if the separation of the proceedings has by no means been possible without prejudice to an all-embracing clarification of the matter. The ruling to this effect shall be issued by the juvenile panel of the competent court on the basis of the reasoned proposal made by the public prosecutor. No appeal shall be allowed against such ruling.

(3) When single proceedings are conducted against a minor and adult perpetrators together, the provisions of this Act that shall always apply to the minor are the provisions of Articles 48 to 55, Articles 63 to 65, Article 70, Article 74, Article 82, Paragraph 2 and Article 83 (when the issues relating to the minor are being clarified at the trial), Article 84, Paragraph 1, Article 85, Paragraph 5, Article 86 and Article 89. This provisions of Articles 72 and 73 of this Act shall apply appropriately, and other provisions of this Act shall apply if their application would not be contrary to the conduct of the merged proceedings. In the single proceedings, the enquiry shall be conducted by an investigatory judge of the county court (Article 41).

(4) When a minor participated in the commission of a criminal offence together with a young adult, the trial shall be within the jurisdiction of a juvenile panel, and when he or she participated in the commission of a criminal offence together with an adult, he or she shall be tried by a court of law in accordance with general regulations.

#### Article 61

(1) When the same person committed one criminal offence when he or she was a minor, and another criminal offence when he or she was a young adult who, at the time when the proceedings were instituted and during the trial, was under twenty three years of age, single proceedings shall be instituted under Article 43 of this Act. If the perpetrator was, at the time of the trial, over twenty three years of age, single proceedings shall be conducted in accordance with general regulations.

(2) When the same person committed one criminal offence when he or she was a minor, and another criminal offence when he or she was over twenty one years of age, single proceedings shall be conducted in accordance with the provision of the Criminal Proceedings Act governing the merger of proceedings.

#### 4. Preliminary Pre-trial Procedure

##### Article 62

(1) If a public prosecutor, in making a decision under Article 45 of this Act, assesses that there are no grounds for instituting criminal proceedings against a minor (Article 174 of the Criminal Proceedings Act), he or she shall inform the injured party about this and provide to him or her reasons for doing so, and if the police authorities have reported the offence, he or she shall also inform these authorities.

(2) The injured party may, within eight days of the receipt of public prosecutor's information, request that the juvenile panel of a higher court makes a decision on the institution of the proceedings. The panel shall make its decision after obtaining opinion from the public prosecutor. The panel may decide that the proceedings shall not be instituted at all, or that the proceedings shall be instituted before a juvenile judge.

(3) When the panel decides that proceedings shall be instituted against the minor concerned, the competent public prosecutor shall take charge of the proceedings against that minor.

##### Article 63

(1) For a criminal offence punishable by a prison sentence of up to five years or by a fine, the public prosecutor may decide not to request that the criminal proceedings be instituted, although there is a reasonable doubt that the minor concerned committed that offence, if he or she considers that it would not be purposeful to conduct the proceedings against the minor, having in mind the nature of the criminal offence and the circumstances in which the offence was committed, as well as earlier life of the minor and his personal characteristics. In order to establish these circumstance, the public prosecutor may request information from the minor's parents or guardian, other persons and institutions; he or she may also request that these information be collected by an adviser in the public prosecution service. When it is necessary, he or she may invite these persons and the minor to the public prosecution service to give him or her such information directly.

(2) The public prosecutor shall bring the decision referred to in Paragraph 1 above, together with the reasons for making such decision, to the attention of the centre of social welfare and to the injured party. The public prosecutor shall advise the injured party that he or she may file his or her property claim in a lawsuit. If the police authorities reported the offence, the public prosecutor shall inform them as well.

##### Article 64

(1) The public prosecutor may make his or her decision not to institute criminal proceedings (Article 63) conditional on the minor' willingness:

a) to repair or make compensation for the damage done by the offence, according to his or her own abilities (within the meaning of Article 9, Paragraph 2, Item 2);

b) to get involved in the work of humanitarian organisations or in the activities of community or environmental relevance (within the meaning of Article 9, Paragraph 2, Item 7);

c) to undergo treatment for drug addiction or other addictions (within the meaning of Article 9, Paragraph 2, Item 9).

(2) After the minor has, with the assistance and co-operation of the centre of social welfare, fulfilled the obligations, the public prosecutor shall make a final decision not to institute proceedings against him or her.

(3) The public prosecutor shall bring the decision referred to in Paragraphs 1 and 2 above, together with the reasons for making such decision, to the attention of the centre of social welfare and to the injured party. The public prosecutor shall advise the injured party that he or she may file his or her property claim in a lawsuit. If the police authorities reported the offence, the public prosecutor shall inform them as well.

#### Article 65

(1) When the execution of a punishment or a correctional measure is in progress, or if these sanctions have been pronounced by a final decision, or if the minor has, by the centre of social welfare's decision, been placed in a social welfare institution, the public prosecutor may decide not to request that criminal proceedings for another criminal offence be instituted if, having in mind the seriousness and nature of the criminal offence and motives for which it was committed, the conduct of the proceedings and the imposition of a sanction would obviously serve no purpose.

(2) The public prosecutor shall bring the decision referred to in Paragraph 1 above, together with the reasons for making such decision, to the attention of the centre of social welfare and the injured party. The public prosecutor shall advise the injured party that he or she may file his or her property claim in a lawsuit. If the police authorities reported the offence, the public prosecutor shall inform them as well.

#### Article 66

(1) The obtaining of information about a criminal offence and its perpetrator, the collection of important information from the minor suspected of offence and from other persons, as well as other inquests shall be carried out by police authorities in accordance with the Criminal Proceedings Act.

(2) Cases involving criminal offences committed by minors shall be dealt with by officers of police authorities specialised for juvenile delinquency.

#### Article 67

(1) Police authorities shall have the powers to arrest a minor under the conditions prescribed by Article 95 of the Criminal Proceedings Act and shall either bring him or her without delay to a juvenile judge or release him or her. The juvenile judge shall, without delay, inform the minor's parents or guardian about the arrest.

(2) The juvenile judge may order that the minor brought before him or her be detained for up to 24 hours.

(3) If, because of some circumstances, the actions referred to in Paragraphs 1 and 2 above can not be taken by a juvenile judge, they shall be taken by an investigatory judge who shall inform the juvenile judge about it.

(4) An appeal against the rulings on detention shall be decided by the panel referred to in Article 20, Paragraph 2 of the Criminal Proceedings Act.

## 5. Pre-trial Proceedings

### Article 68

(1) A request to institute a pre-trial proceedings shall be made by the public prosecutor to a juvenile judge in the competent court.

(2) If the juvenile judge agrees with the request, he or she shall pass a ruling on the institution of pre-trial proceedings. The minor shall have the right to lodge an appeal against that ruling. That appeal shall be decided by the juvenile panel of a higher court.

(3) If the juvenile judge does not agree with the request, he or she shall require that the juvenile panel of a higher court make a decision on that.

(4) The juvenile judge may charge police authorities with executing a warrant on search of home and on personal search, and on temporary seizure of items, as provided by the Criminal Proceedings Act. The juvenile judge can, at the proposal of the public prosecutor, also charge them with performing a specific action in the cases specified by Article 193, Paragraph 4 of the Criminal Proceedings Act.

### Article 69

(1) If the criminal offence carries a punishment of imprisonment of more than to five years or a milder punishment, the public prosecutor may submit to the juvenile judge a reasoned proposal for punishment, or for application of a correctional measure against the minor, without having conducted any pre-trial proceedings, if the collected information about the criminal offence and about the minor's personality provide sufficient grounds for submitting such proposal.

(2) If the juvenile judge, after having examined the minor, ascertains that requirements have been met for making a proposal to impose a correctional measure or punishment even without conducting any pre-trial proceedings, and if the minor has given his or her consent to that effect, the juvenile judge shall forward the proposal to the panel for the purpose of trial. Otherwise, he or she shall treat the proposal as a request for instituting a pre-trial proceedings.

### Article 70

(1) In the pre-trial proceedings against a minor, in addition to establishing the facts relevant for the criminal offence, provision shall also be made for the determination of the age of the minor, circumstances necessary for the assessment of the level of his or her mental development; moreover, the environment and circumstances in which he or she lives shall be examined, as well as other circumstance concerning his or her personality.

(2) In order to determine these circumstances, minor's parent, guardian and other persons who may give necessary information shall be heard. A report on these circumstances shall be requested from the centre of social welfare, and if the minor has been subjected to a correctional measure, a report shall be requested on the execution of this measure.

(3) The juvenile judge shall be the one who shall obtain the information on the minor's personality. The juvenile judge may entrust the task of collecting this information with an expert assistant, as well as with the centre of social welfare.

(4) When, in order to determine the minor's health status, the level of his or her mental development, psychological characteristics or inclinations, such minor has to be examined by expert witnesses, it shall be determined that these examinations be made by medical doctors, psychologists and pedagogues. Such examinations of minors may be carried out in a health institution or in a similar institution.

#### Article 71

(1) A juvenile judge shall by himself or herself determine the way of performing particular actions, and while doing so, he or she shall act in accordance with the provisions of the Criminal Proceedings Act with special regard for the defendant's right to defence, rights of injured party and collection of evidence necessary for decision-making.

(2) When actions in a pre-trial proceedings are conducted, the following persons may attend: public prosecutor, minor, within the meaning of the provision of Article 198 of the Criminal Proceedings Act – unless the reasons referred to in Article 83, Paragraph 4 of this Act exist – and the defence counsel. When necessary, examination of a minor shall be carried out with the assistance of a pedagogue, psychologist or other expert. The juvenile judge may approve that a representative of the centre of social welfare, parents or guardian of the minor be present when actions in a pre-trial proceedings are conducted. When these persons are present during the conduct of these actions, they may give proposals and put questions to the person who is examined or heard.

#### Article 72

(1) A juvenile judge may, by himself or herself, or at the public prosecutor's proposal decide that, during the pre-trial proceedings, a minor be placed under the supervision of a centre of social welfare which would offer to him or her assistance and protection, or that such minor be temporarily placed in a social welfare institution when it is appropriate having in mind the sanction expected to be imposed in order to protect the minor from further damage to his or her development, and particularly from the temptation to repeat the commission of criminal offences.

(2) A ruling on temporary placement shall be issued by the juvenile judge. An appeal against such ruling shall be decided by the juvenile panel of a higher court.

(3) The execution of temporary placement shall be regulated by the provisions applicable to such institutions.

(4) The costs of accommodation shall be paid in advance from the State Budget and shall be included in the cost of criminal proceedings.

#### Article 73

(1) A juvenile judge may order that the minor be detained if the reasons referred to in Article 102, Paragraphs 1 and 2 of the Criminal Proceedings Act exist. The detention measure shall be applied only as a measure of last resort, in proportion to the seriousness of the offence and the expected sanction; its length shall be minimal and it shall be ordered only if its purpose can not be achieved by the application of precautionary measures (Article 90 of the Criminal Proceedings Act) or measures of temporary accommodation (Article 72).

(2) A juvenile judge shall forthwith notify parents, guardian or institution entrusted with the care for the minor, as well as the centre of social welfare about the detention of the minor.

(3) Based on the ruling on detention issued by a juvenile judge, such detention may only last one month. The panel of the same court may, for legitimate reasons, prolong the detention for another month, but not more than for one additional month.

(4) An appeal against a ruling issued by the juvenile judge and an appeal against a ruling issued by the juvenile panel shall be heard by the panel referred to in Article 57, Paragraph 5 of this Act. If, because of some specific circumstances, the panel referred to in Article 57, Paragraph 5 of this Act can not decide the appeal against a ruling issued by the juvenile judge, such appeal shall be decided by a panel determined in accordance with general regulations (Article 110, Paragraph 3 of the Criminal Proceedings Act).

#### Article 74

(1) A minor shall, as a rule, be detained separately from adults.

(2) A juvenile judge may order that a minor be detained with adults if the isolation of the minor would last for a longer period of time and if it is possible to place the minor in the same premises with an adult who would not exercise harmful influence on him or her.

(3) Detained minors shall be allowed to work and to undergo, if possible, a training beneficial for their development and occupation.

(4) In exercising his or her supervision over the treatment of detained minors, and especially having in mind the detained minors' age, a juvenile judge shall visit detainees, receive oral and written complaints from them and take appropriate actions in order to remove the irregularities detected.

#### Article 75

After having examined all circumstance relating to the commission of a criminal offence and to the minor's personality, a juvenile judge shall forward the files to the competent public prosecutor who shall be obliged to do, within eight days, any of the following: request that pre-trial proceedings be supplemented; state that he or she drops charges; move for the termination of the proceedings or submit a reasoned motion to impose punishment or apply a correctional measure.

#### Article 76

(1) If the public prosecutor establishes that there are no grounds for conducting procedure against a minor and states that he or she drops charges, the juvenile judge shall terminate the proceedings against the minor and inform the injured party thereabout.

(2) The injured party may, within eight days from the date when he or she received notification from the juvenile judge request that the juvenile panel of a higher court decides on the continuation of the procedure. The panel shall make a decision after having obtained the public prosecutor's opinion.

(3) When the panel decides that the injured party's request is founded, the competent public prosecutor shall continue the proceedings against the minor.

## Article 77

(1) If the public prosecutor establishes that it would not be purposeful to conduct proceedings against a minor (Articles 63 and 65), he or she shall submit a motion to the juvenile judge to terminate the proceedings and inform about this the centre of social welfare.

(2) If the juvenile judge does not grant the public prosecutor's motion, he or she shall request that a decision on that issue be made by the juvenile panel of a higher court. The panel shall make a decision after having obtained the public prosecutor's opinion.

(3) When the panel does not accept the motion to terminate the proceedings, the competent public prosecutor shall continue the proceedings against the minor.

## Article 78

(1) The public prosecutor's motion to apply a correctional measure or to impose a punishment shall contain the name and surname of the minor, his or her JMBG (personal identification number), age, description of the criminal offence, evidence indicating that the minor actually committed that offence, explanation containing an assessment on the level of the minor's mental development and proposal that the minor be imposed a punishment or subjected to a correctional measure.

(2) The essentials of the collected information on the minor's personality (Article 70) shall be outlined in such a way that, to the extent possible, it does not have harmful effect on the minor's upbringing.

### 6. Procedure Before the Panel

## Article 79

(1) When the presiding judge receives the public prosecutor's proposal (Article 78) and finds out that there are no grounds for conducting the proceedings, or that further conduct of proceedings would not be purposeful (Articles 63 and 65), he or she shall request that a decision on this matter be made by the juvenile panel of a higher court. The panel shall make a decision after having obtained the public prosecutor's opinion.

(2) The panel may terminate the proceedings against the minor or decide that the proceedings be continued before the panel of the first-instance court.

## Article 80

(1) If the presiding judge does not request a decision from the panel of a higher court, or when the panel of a higher court decides that the proceedings be continued against the minor, the presiding judge shall be obliged to convene, within eight days, the session of the panel or to schedule the trial.

(2) Punishments and reformatory measures may be imposed only after the trial has been held. Other correctional measures may be imposed at the panel's session.

(3) At the panel's session a decision may be made to hold the trial.

### Article 81

(1) The minor, his or her defence counsel, parents or guardian and the public prosecutor shall be invited to the session of the panel. A representative of the centre of social welfare shall be informed of the panel's session and he or she may attend that session.

(2) If the minor does not come to the session, the court may decide that the session be held in his or her absence, provided that his or her presence is not necessary.

### Article 82

(1) When the panel is to make a decision on the basis of the trial, the provisions of the Criminal Proceedings Act on the preparations for the trial, on the conduct of the trial, on postponement and termination of the trial, on the minutes to be taken and on the course of the trial shall be applicable in an appropriate way, but the court may decide not to follow these rules if it deems that their application in a particular case would not be purposeful.

(2) In addition to the persons mentioned in Article 286 of the Criminal Proceedings Act, the minor's parents or guardian and a representative of the centre of social welfare shall be invited to the trial. Failure on behalf of the parents, guardian or centre of social welfare's representative to appear shall not preclude the court from holding the trial.

(3) Apart from the minor, the public prosecutor shall also be present at the trial. In cases when defence is mandatory, the defence counsel shall be present as well.

### Article 83

(1) When a minor is put on trial, such trial shall always be closed for public.

(2) The panel may allow that the persons engaged in the protection and upbringing of minors or in the fight against juvenile delinquency, as well as scientific workers be present at the trial.

(3) In the course of the trial the panel may order that, except for the public prosecutor, defence counsel and representative of the centre of social welfare, everyone or just particular persons be evicted from the courtroom.

(4) During the presentation of evidence or a party's testimony, the panel may order that the minor be evicted from the courtroom because of possible harmful influence on his upbringing. If it would be important for the minor's defence, the panel shall inform him or her about the contents and course of the proceedings in his or her absence.

### Article 84

(1) During the proceedings before the court, the juvenile judge or panel may make a decision on temporary accomodation (Article 72) and may also revoke a decision that had previously been made to that effect.

(2) The time spent in detention from the submission of proposal about the sanction to be imposed to the moment when the judgement becomes final may not exceed one half of the period prescribed by Article 109, Paragraph 1 of the Criminal Proceedings Act.

## Article 85

(1) In determining whether it will impose a punishment or apply a correctional measure on a minor, the panel shall not be bound by the public prosecutor's proposal. However, if the public prosecutor has withdrawn the proposal, the panel may not impose a punishment, but just a correctional measure.

(2) The panel shall, by its ruling, terminate the proceedings, in cases when the court makes a judgement rejecting charges (Article 353, Items 4 to 6 of the Criminal Proceedings Act) or acquitting defendant (Article 354 of the Criminal Proceedings Act) and when the panel establishes that it would be purposeful neither to impose a punishment nor to apply a correctional measure on a minor.

(3) The panel shall also issue a decision when imposing a correctional measure on a minor. The ruling of that decision shall just state what measure is being imposed, but the minor shall not be found guilty for the criminal offence with which he or she has been charged. The statement of reasons of the decision shall contain the description of the offence and circumstances justifying the application of the correctional measure imposed.

(4) The judgement by which a punishment is imposed on a minor or by which a reservation is made as to the imposition of the punishment shall be rendered in the form of conviction.

(5) The reasons for the decision referred to in Paragraphs 3 and 4 above which might have harmful influence on the minor's upbringing shall not be stated.

(6) If the juvenile panel establishes that the trial is within the jurisdiction of the juvenile panel of a higher court, it shall pass a ruling on the transfer of the matter to that court.

(7) The presiding judge shall be obliged to issue, within eight days of the promulgation of the decision, a written judgement or ruling, and, if it has not been possible for legitimate reasons, that deadline may exceptionally be extended, but for not more than fifteen days.

## Article 86

(1) The court may sentence a minor to pay the expenses of criminal proceedings and to settle a property claim only after it has imposed a punishment on that minor. If a correctional measure has been imposed on a minor, the legal expenses shall come upon the State Budget, and the injured party shall be instructed to file his or her property claim in a lawsuit.

(2) If a minor has his or her own income or property, he or she may be ordered to pay the expenses of criminal proceedings and settle a property claim, even when a correctional measure has been imposed on him or her.

## 7. Legal Remedies

### Article 87

(1) Any person having the right to appeal against a judgement (Article 363 of the Criminal Procedure Act) may lodge an appeal against the judgement by which a punishment has been imposed on a minor, the ruling by which a correctional measure has been applied to a minor and the ruling by which the proceedings have been terminated. The appeal may be lodged within eight days of the receipt of the judgement or ruling.

(2) Defence counsel, public prosecutor, spouse, lineal-discent relative, adoptive parent, guardian, brother, sister and foster parent may lodge an appeal on behalf of the minor even when he or she has refused to give his consent.

(3) The persons who have lodged an appeal on behalf of a minor may withdraw the appeal only with his or her consent.

(4) An appeal against the ruling on imposition of a correctional measure to be implemented in an institution shall suspend the execution of the ruling, unless the court, with the consent of the minor's parents and after having heard the minor, decides otherwise.

(5) A substantial violation of the criminal proceedings rules shall exist when the decision on the sanction imposed has not been written within the time limits referred to in Article 85, Paragraph 7 of this Act.

(6) The minor shall be invited to the session of the second-instance panel (Article 374 of the Criminal Proceedings Act), only if the presiding judge or the panel establishes that his or her presence would be beneficial.

#### Article 88

(1) A second-instance court may modify the first-instance court's decision by imposing a harsher sanction to the minor, only if such proposal is contained in the appeal.

(2) If the first-instance decision does not provide for the imposition of a juvenile prison sentence or reformatory measure, the second-instance panel may impose such sentence or measure, respectively, only after having held a hearing. Juvenile imprisonment longer than, or reformatory measure harsher than that imposed by the first instance court's decision may be imposed also at the session of the second-instance panel.

#### Article 89

The provisions of the Criminal Proceedings Act on the re-opening of the criminal proceedings that ended with a final judgement shall, in appropriate way, also be applicable to the re-opening of the proceedings terminated with a final ruling on the application of a correctional measure or on the termination of the proceedings against a minor.

### 8. Procedure on the Occasion of Subsequent Imposition of a Sentence of Juvenile Imprisonment

#### Article 90

(1) A minor with respect to whom the right to impose juvenile imprisonment has been reserved (Article 27) may later on be sentenced (Article 28) on the basis of the proposal made by the public prosecutor.

(2) In the cases of conviction for another criminal offence, a decision on the proposal shall be made by the court competent in that proceedings, and in cases referred to in the first sentence of Article 28, Paragraph 1 of this Act, a decision shall be made by the court which, in the first instance, reserved its right to impose a sentence of juvenile imprisonment. The trial and the

judgement shall be limited only to the issue of dealing out of the punishment and to the reasons for its subsequent imposition or non-imposition.

(3) The decision on the rejection of the proposal for subsequent imposition of punishment may be challenged by an appeal lodged by the public prosecutor, and the decision on the imposition of punishment may be challenged by an appeal lodged by any person specified in Article 87, Paragraphs 1 and 2 of this Act.

### **III. Provisions Concerning the Execution of Sanctions**

#### **1. Correctional Measures**

##### **Article 91**

The purpose of execution of correctional measures is to exert, by means of protection, care, supervision and education, a positive influence on the overall mental and physical development of the minor concerned and to encourage the strengthening of his or her personal responsibility.

##### **Article 92**

During the execution of correctional measures imposed on minors, respect shall be paid to their personality and dignity, their physical, moral and intellectual development shall be stimulated and their physical and mental health shall be protected.

##### **Article 93**

(1) Execution of correctional measures is based on individual programmes of treatment of minors, such programmes being, to the fullest extent possible, adapted to their personality and in harmony with the latest achievements in science and in practice.

(2) An individual programme shall be made on the basis of a thorough analysis of the special traits of the minor concerned, of the causes for, and type of the criminal offence, as well as of other forms of behavioural disorders, educational level, minor's life history and circumstances of his or her family life.

(3) An individual programme shall contain: stimulating arrangements adapted to the minor's special traits, provision for his or her inclusion in education and professional training, utilisation of his or her leisure time, work with his or her parents or guardian and other members of his or her family, as well as other kinds of influence on the minor.

##### **Article 94**

(1) The costs of execution of correctional measures shall come upon the State Budget.

(2) Parents or (other) persons who have legal obligation to support the minor concerned shall be obliged to cover a part of costs for execution of correctional measures.

(3) The amount of contribution by parents or (other) persons who have legal obligation to support the minor concerned shall be determined by the court on the occasion when it makes a decision on the application of the correctional measure. If, in order to determine that contribution, it is necessary to conduct a broader examination of the income status of the persons obliged to support

the minor, the court shall first make a decision on the application of the correctional measure, and then continue the proceedings for determination of the amount of the contribution.

(4) Because of a subsequent change in circumstances, the court may modify its decision on the amount of contribution.

#### Article 95

Correctional measures shall be enforced after the court judgement has become final and when there are no legal impediments for their execution, unless otherwise regulated by this Act (Article 87, Paragraph 4).

#### Article 96

When the juvenile court, in the course of the execution of a correctional measure, establishes the existence of facts and circumstances pointing to the need to undertake measures for the protection of rights and well-being of the minor, it shall be obliged to inform the centre of social welfare about that.

#### Article 97

(1) The supervision over the execution of correctional measures shall be exercised by the court which imposed that measure in the first-instance proceedings.

(2) The court shall be obliged to keep separate records for every minor on whom it has imposed a correctional measure.

#### Article 98

(1) The governor of the institution in which a reformatory correctional measure is being enforced shall, every six months, submit to the court that have imposed the correctional measure and to the public prosecutor a report on the minor's behaviour and on the efficiency of the execution of the measure. The governor of the institution shall put forward a proposal to the court, having in mind the results achieved with regard to the upbringing and reforming of the minor, to replace or terminate the execution of the correctional measure.

(2) The juvenile judge and public prosecutor shall visit, at least twice a year, the minors placed in an institution, and by direct contacts with such minors and the staff who are directly involved in the execution of correctional measures, as well as by inspection of the institution's documentation, they shall control the legality and correctness of the treatment such minors receive, and the achieved correctional results.

(3) The juvenile judge shall bring the detected deficiencies and other observations to the attention of the bodies and institutions in charge of professional supervision over the execution of correctional measures and of the institutions actually enforcing that particular correctional measure.

(4) Following the juvenile judge's notification, the bodies and institutions in charge of professional supervision shall without delay make appropriate checks and take actions in order to remove illegalities and irregularities, and shall inform the court about that.

#### Article 99

The juvenile judge shall, through the centre of social welfare or an expert assistant, obtain a report on the execution of other measures. The centre of social welfare shall, not less frequently than every six months, submit to the court that has imposed a correctional measure a report on the course of the execution of that measure.

#### Article 100

(1) When the requirements provided for in this Act for the termination of the execution of a correctional measure or for the replacement of a correctional measure (Article 14, Paragraph 3; Article 15, Paragraph 2; Article 16, Paragraph 4; Article 17 and Article 19) or for the decision under Article 9, Paragraph 5, Article 10, Paragraph 5, Article 13 and Article 20 of this Act have been met, that matter shall be decided by the panel of the juvenile court that has passed the first-instance ruling on the correctional measure, at his or her own initiative or at the proposal of the public prosecutor, governor of the institution or service exercising intensified supervision over the minor concerned.

(2) Before reaching the decision referred to in Paragraph 1 of this Article, the court shall hear the public prosecutor, minor, minor's parent or guardian or other persons, and shall also obtain necessary reports from the institution in which the minor is serving his or her reformatory measure, from the centre of social welfare or from other bodies or institutions.

(3) An expert assistant in the court shall, on instructions of the judge, carry out particular actions in order to make preparations for the decision to be made by the court (Paragraph 1).

(4) The decision referred to in Paragraph 1 above may be challenged by an appeal lodged by any person specified in Article 87, Paragraphs 1 and 2 of this Act within eight days. That appeal shall be heard by the juvenile panel of a higher court.

#### Article 101

(1) A minor shall have the right to file a complaint to the governor of the institution in which reformatory measure is being enforced about any violation of his or her right or about other irregularities experienced by him or her in the course of the execution of the measure.

(2) If the minor is not satisfied with the decision made by the governor with regard to the complaint, and the denial or violation of the minor's statutory rights related to the proceedings is in question, he or she shall have the right to make, through the governor's office, a written application requesting that a decision on the legitimacy of the complaint be made by the juvenile panel of the county court having jurisdiction in the territory where the institution is located.

### 2. Juvenile Imprisonment

#### Article 102

The purpose of execution of the sentences of juvenile imprisonment is to ensure that convicted minors develop their personal responsibility and to render them capable of living and behaving in compliance with the law and according to the needs related to their life in the community, once they are released from prison.

### Article 103

(1) It shall be made possible for convicted minors to acquire, while serving the sentence, appropriate qualifications for an occupation in accordance with their knowledge, abilities, inclinations and activities they used to perform earlier, subject to the possibilities available to the penal institutions. The treatment is based on the minors' inclusion in the work that has a useful educational effect and for which they receive appropriate remuneration, on enabling and encouraging their contacts with the outside world by means of letters, telephone, receiving visitors, temporary release, etc., sports activities and on providing facilities for meeting their religious needs.

(2) Professional staff of the treatment services shall have sufficient knowledge of pedagogy and psychology.

### Article 104

(1) The sentence of juvenile imprisonment shall be served in a penal institution for minors. It may, exceptionally, be served in a penal institution for young adults or in special divisions of penal institutions for adult convicts.

(2) Convicts shall, as a rule, serve their sentence of juvenile imprisonment jointly. Separate serving of sentence shall be provided only when required by the health condition of a convict or by the need to ensure discipline and safety in a penal institution.

(3) Male and female minors shall serve their sentence of juvenile imprisonment in separate penal institutions or in separate divisions within these institutions.

(4) Convicted minors shall serve their sentence of juvenile imprisonment in penal institutions where they may stay until they attain twenty three years of age. If, by that time, they do not serve the whole of their prison sentence, they shall be referred to a penal institution where adult persons serve their sentences. Exceptionally, a convicted person who has attained twenty three years of age may stay in the juvenile institution if it is necessary in order to ensure that he or she finishes his or her education or vocational training, or if the remaining part of his or her prison sentence is not longer than six months, but in no case after attaining twenty seven years of age.

### Article 105

A request for judicial review of the measure or decision taken by the governor of a penal institution in which the convicted person serves his or her sentence shall be dealt with by the county juvenile court having jurisdiction in the territory where that sentence is being served.

### Article 106

(1) A decision on conditional release of a person sentenced to juvenile imprisonment shall be made by the county juvenile court having jurisdiction in the territory where the penal institution is located.

(2) The court shall make its decision on the basis of a request made by the minor, members of his immediate family, at the proposal of the penal institution's governor or public prosecutor. The court shall *ex officio* consider the conditional release of a minor two months before such minor has served two thirds of the sentence.

(3) Before making any decision, the court shall request opinion of the public prosecutor and, if necessary, interrogate the minor. Interrogation shall be mandatory if a decision is to be made on conditional release after two thirds of the sentence have been served, except if the court has given its consent to the conditional release of the minor.

(4) The decision on revocation of conditional release shall be made by the county juvenile court having jurisdiction in the territory of which the penal institution is located, after the public prosecutor and the minor have been interrogated.

### 3. Safety Measures

#### Article 107

(1) The measure of mandatory psychiatric treatment shall be implemented in a separate part of a health institution which is intended specially for minors.

(2) During the implementation of safety measures of mandatory psychiatric treatment and mandatory treatment for addiction, such measures may, in order to accomplish the purpose of their implementation and having in mind special character of treatment of minors, be implemented in more flexible forms, by departing from general regulations.

## PART THREE

### YOUNG ADULTS

#### I. Application of Criminal Legislation

#### Article 108

With regard to young adult perpetrators of criminal offences, the provisions of Penal Code and criminal-law provisions of other laws of the Republic of Croatia, and, subject to the requirements specified by this Act (Article 109), the provisions covering minor perpetrators of criminal offences shall be applicable.

#### Article 109

(1) The court may apply to a young adult a correctional measure of special obligations, correctional measure of intensified supervision and juvenile imprisonment. If the offender was, during the trial, under twenty one years of age, a reformatory measure can also be applied to him or her. The court shall apply a juvenile sanction when, having in mind the type of criminal offence and the manner in which it was committed, it may be concluded that such offence reflects, to a great extent, the perpetrator's age, and the circumstances related to his or her personality support the belief that the purpose of the sanction will be accomplished by the application of correctional measures or by the imposition of the punishment of juvenile imprisonment. The applied correctional measure may not continue after the time when the perpetrator attains twenty three years of age. Maximum term of the punishment of juvenile imprisonment shall be ten years.

(2) A young adult perpetrator who, at the time of the trial, attained twenty one years of age, may be sentenced by the court to imprisonment instead of juvenile imprisonment. If the perpetrator attained, during the trial, twenty three years of age, the court shall impose on him or her the

sentence of imprisonment instead of juvenile imprisonment. The imposed sentence of imprisonment shall, with regard to rehabilitation and legal consequences of the sentence, have the same legal effect as juvenile imprisonment.

(3) In cases of imposition of correctional measures and juvenile imprisonment, young adults may be subjected to safety measures under the same conditions as minors (Article 30).

(4) When the court imposes a sanction on a young adult under Paragraph 1 above, the provisions of Articles 5 and 7, Article 9, Paragraphs 1 to 8, Articles 11, 12, 14 to 23, Article 24, Paragraphs 2 and 3 , Articles 25 to 30 and Article 33 of this Act shall be applicable.

#### Article 110

(1) When general criminal law is applicable to a criminal offence committed by a young adult, the court shall not be obliged, subject to limitations provided for by Article 57, Paragraph 2 of the Penal Code on the mitigation of punishment, to impose the minimum term of punishment for the criminal offence concerned. The court may neither impose a prison sentence of more than twelve years, except for offences carrying the punishment of long-time imprisonment or for concurrence of at least two criminal offences carrying the punishment of prison sentence of more than ten years.

(2) A young adult offender may not be subject to the safety measure of prohibition to practice a profession or to carry out an activity or duty.

### **II. Criminal Procedure Provisions**

#### Article 111

(1) Criminal proceedings against a young adult shall be conducted in accordance with the provisions of the Criminal Procedure Act, provided that in the proceedings against a perpetrator who is during the trial under twenty three years of age, the provisions of Article 53, Article 66, Paragraph 2 and Article 70 of this Act shall apply. However, if it is established that the application of juvenile criminal law is available (Article 109), the provisions of Article 49, Paragraph 1 and Paragraphs 4 to 6, Articles 52, 54, 55, Articles 63 to 65, Article 84, Paragraph 2, Articles 86 and 90 of this Act shall be appropriately applicable.

(2) When the proceedings against a young adult have been merged with the proceedings against a minor (Article 60, Paragraphs 2 and 4), the provisions of Paragraph 1 above shall apply with regard to the young adult.

(3) The investigation in the criminal proceedings against a young adult shall be conducted by a particular investigatory judge (Article 41).

#### Article 112

The provisions of the Criminal Procedure Act on summary proceedings and on the proceedings of issuing a criminal warrant shall be applicable in the criminal proceedings against a young offender only when imposition of juvenile punishments is not available.

#### Article 113

The provision of Article 56 of this Act shall appropriately apply to the trials involving criminal cases of young adults.

## Article 114

(1) Criminal cases of young adults shall be tried by juvenile panels (Article 115, Paragraphs 1 to 5) when juvenile criminal law applies (Article 109) and when the application of general criminal law is expected (Article 108), they shall be tried by juvenile panels and juvenile judges (Article 115).

(2) The provisions of Articles 35 to 42 of this Act shall be appropriately applicable.

## Article 115

(1) The juvenile panel of a municipality court and the juvenile panel of the first instance county court shall be composed of the juvenile judge and two lay judges for juveniles. When the juvenile panel of a county court, in conducting a trial, applies general criminal law on criminal offences carrying a punishment of 15 years' imprisonment, it shall be composed of two judges, of which at least one shall be a juvenile judge, and three lay judges for juveniles.

(2) The provision of Article 57, Paragraph 2 of this Act shall be applicable to the composition of the juvenile panel of the second instance county court.

(3) The juvenile panel of the Supreme Court of the Republic of Croatia shall, when hearing second instance cases, be composed of three judges. When, in conducting a trial, it applies general criminal law on criminal offences carrying a punishment of 15 years' imprisonment, the panel shall be composed of five judges of which three shall be judges of the juvenile panel, and when conducting second instance hearings, of two judges of the juvenile panel and three lay judges for juveniles. When making third instance decisions and decisions on extraordinary legal remedies, the panel shall be composed in accordance with the general provisions.

(4) The provision of Article 57, Paragraph 4 of this Act shall apply to the composition of the juvenile panel in the criminal cases of young adults.

(5) A panel which is not a trial panel shall rule in the composition regulated by the general provisions, provided that at least one member of the panel shall be a juvenile judge.

(6) A juvenile judge of the municipality court shall be the judge in charge of the summary proceedings and of the proceedings of issuing a criminal warrant.

## **III. Execution of Punishments**

### Article 116

In the execution of the sanctions imposed on young adults (Article 109), the provisions of Articles 91 to 95 and Articles 97 to 107 shall be appropriately applicable.

**P A R T F O U R**

**CRIMINAL LAW PROTECTION OF**

**CHILDREN AND YOUTH**

Article 117

Juvenile panels and juvenile judges (Article 125) shall try adult perpetrators of the following criminal offences committed against children and youth, as provided by the Penal Code:

- rape (Article 188),
- sexual intercourse with a helpless person (Article 189),
- sexual intercourse by duress (Article 190),
- sexual intercourse by abuse of position (Article 191).
- sexual intercourse with a child (Article 192),
- lewd acts (Article 193),
- satisfying lust in the presence of a child or a minor (Article 194),
- pandering (Article 195),
- abuse of children or juveniles in pornography (Article 196),
- introduction of pornography to children (Article 197),
- incest (Article 198),
- failure of the obligation to provide maintenance (Article 209),
- abduction of a child or juvenile (Article 210),
- change in family status (Article 211),
- child desertion (Article 212),
- neglect or abuse of a child or a juvenile (Article 213),
- extramarital cohabitation with a juvenile (Article 214),
- obstruction and failure to perform measures to protect a child or a juvenile (Article 215),
- establishment of slavery and transport of slaves (Article 175),
- international prostitution (Article 178).

Article 118.

(1) Criminal proceedings against perpetrators of criminal offences referred to under Article 117 of this Act shall be conducted in accordance with the provisions of the Criminal Proceedings Act, provided that the provisions on issuing criminal warrants shall not be applicable.

(2) Specialised officers of police authorities shall participate in the inquests of such criminal offences (Article 66, Paragraph 2).

(3) The investigation shall be held by a specified investigatory judge (Article 41).

Article 119

(1) When performing procedural actions in criminal cases involving perpetrators of criminal offences against children and minors, the juvenile judge shall treat the child or minor who has been a victim of the criminal offence with special consideration, paying special attention to his or her age, personality features, education and circumstances in which he or she lives in order to avoid possible adverse consequences for his or her education and development. If necessary, the examination of a child or minor shall be made with the assistance of a psychologist, pedagogue or other professional.

(2) The provisions of Article 55 of this Act shall be appropriately applicable to criminal cases involving perpetrators of criminal offences against children and minors.

#### Article 120

When holding an opinion that, in order to protect legal interests of the injured party or an injured party acting as prosecutor, it would be reasonable to appoint a legal representative for him or her, the president of the court shall, at the proposal of the investigatory judge or juvenile judge, appoint for him or her legal representative from the ranks of attorneys-at-law.

#### Article 121

The juvenile judge shall bring facts and circumstances established in criminal proceedings that have contributed to, or facilitated the commission of criminal offence to the attention of the competent centre of social welfare in order that measures for the protection of rights and well-being of children and minors might be taken.

#### Article 122

When, during the criminal proceedings, a parent abuses or grossly neglects his or her parental duties and rights and/or violates the child's rights, the public prosecutor shall institute ex parte proceedings to devest the respective parent of his or her parental rights.

#### Article 123

(1) The provision of Article 53 of this Act shall apply appropriately to trials in cases of criminal-law protection of children and minors.

(2) In the proceedings against perpetrators of criminal offences referred to in Article 117 of this Act territorial jurisdiction shall, as a rule, lie with the court of the injured party's permanent residence, and the court of the place where the offence was committed shall have jurisdiction therof if it would facilitate the carrying out of the proceedings.

#### Article 124

The provisions of Articles 36 to 42 of this Act shall appropriately apply to trials for criminal offences referred to in Article 117 of this Act.

#### Article 125

(1) The juvenile panel of a municipality court and the juvenile panel of the first-instance county court shall be composed of one juvenile judge and two lay judges for juveniles. When conducting trials for criminal offences carrying a punishment of imprisonment of more than fifteen years, the juvenile judge of a county court shall be composed of two judges of whom at least one shall be a juvenile judge and two shall be lay judges for juveniles.

(2) The provision of Article 57, Paragraph 2 of this Act shall be applicable to the composition of the juvenile panel of the second-instance county court.

(3) The juvenile panel of the Supreme Court of the Republic of Croatia shall, when hearing second-instance cases, be composed of three judges. When ruling on criminal offences carrying a punishment of fifteen years' imprisonment, the panel shall be composed of five judges of whom

three shall be judges of the juvenile panel, and when adjudicatin in the second instance, of two judges of the juvenile panel and three lay judges for juveniles. When making third-instance decisions and decisions on extraordinary legal remedies, the panel shall be composed in accordance with the general provisions.

(4) The provision of Article 57, Paragraph 4 of this Act shall be reasonably applicable.

(5) A panel which is not a trial panel shall rule in the composition regulated by the general provisions, provided that at least one member of the panel shall be a juvenile judge.

(6) A juvenile judge of the municipality court shall be the judge in charge of the summary proceedings.

#### Article 126

Criminal proceedings for offences referred to in Article 117 of this Act shall be urgent.

### P A R T F I V E

#### **TRANSITORY AND FINAL PROVISIONS**

#### Article 127

(1) A correctional measure of referral to a correctional institution that has been imposed by a final decision by the effective date of this Act may not last longer than provided for by this Act.

(2) A correctional measure of referral to a correctional home that has been imposed by a final decision by the effective date of this Act shall be enforced in the duration not exceeding that provided in this Act for a correctional measure of referral to a reformatory.

(3) A correctional measure of referral to a special correctional institution that has been imposed by a final decision by the effective date of this Act may not last longer than provided for by this Act.

(4) A reformatory measure imposed by a final decision by the effective date of this Act on an adult who committed a criminal offence as a senior minor and who was during the trial under twenty one years of age shall be replaced by a correctional measure of intensified supervision.

#### Article 128

A sentence of juvenile imprisonment that has been imposed by a final decision by the effective date of this Act in the duration longer than that provided for by the first sentence of Article 24, Paragraph 1 of this Act, shall be reduced in accordance with the provisions of this Act.

#### Article 129

The provision of Article 29 of this Act shall also apply to the limitations on execution of juvenile imprisonment when the judgement was passed before the effective date of this Act, unless the statute of limitations has already run out.

### Article 130

The provision of Article 85, Paragraph 4 of the Penal Code on rehabilitation of convicted offenders sentenced to juvenile imprisonment shall also apply to persons convicted before the effective date of this Act, unless the rehabilitation has already begun.

### Article 131

With the entering into force of this Act, the provisions of Chapters XXI to XXIV of the Execution of Criminal Sanctions (Criminal Offences, Economic Transgressions and Misdemeanours) Act (Official Gazette, Nos. 21/74, 39/74, 55/88, 19/90, 26/93, 66/93 and 29/94) shall cease to be effective, unless otherwise regulated by this Act.

### Article 132

(1) Criminal proceedings falling within the competence of juvenile courts and instituted before effective date of this Act shall continue in accordance with this Act, unless otherwise regulated by this Act.

(2) If, by the effective date of this Act, a decision was made in a case falling within the competence of juvenile courts, and under the old\* Criminal Procedure Act a legal remedy is available against that decision, and if such decision has not yet been served to the persons having the right to legal remedy; or the period for lodging a legal remedy has not expired; or the legal remedy has already been lodged, but no decision has been made on it, the applicable provisions as to the right to legal remedy and the proceedings with regard to legal remedy shall be the provisions of the Criminal Procedure Act.

### Article 133

(1) If, on the effective date of this Act, in cases falling within the competence of juvenile courts some time limit has still not expired, that time limit shall be calculated in accordance with the provisions of this Act, unless the time limit under previous legislation is longer.

(2) The provisions of Article 84, Paragraph 2 of this Act on the duration of detention shall apply to the cases initiated after its entering into force.

### Article 134

(1) The cases in which proceedings against a minor have been instituted, but no first-instance decision has been reached yet shall be taken over, within 30 days, by the courts having jurisdiction over these cases under the provisions of this Act.

(2) If following a legal remedy, a case is to be subject to a retrial, it shall be transferred to the court having jurisdiction over it under the provisions of this Act.

### Article 135

The Ministry of Justice shall take care of professional training for persons performing jobs related to juvenile delinquency and criminal-law protection of children and youth and organise, in co-operation with the courts, public prosecution services, scientific and educational organisations and professional associations of lawyers occasional conferences, seminars, tests of knowledge and

other forms of advanced training for judges, public prosecutors and other professionals performing such jobs.

### Article 136

(1) The Minister of Justice shall set up a committee for monitoring and improving the work of criminal-proceedings bodies and execution of juvenile sanctions, and shall also issue rules on its activities no later than within six months of the effective date of this Act.

(2) Members of the committee shall be appointed from the ranks of prominent juvenile judges, public prosecutors for juveniles, expert assistants, attorneys-at-law, Ministry of the Interior's staff specialised for juvenile delinquency, the staff of the Ministry of Justice and of the Ministry of Labour and Social Welfare responsible for the execution of criminal-law sanctions and scientists dealing with juvenile delinquency.

(3) The committee shall submit to the Minister of Justice appropriate proposals and opinions.

### Article 137

This Act shall enter into force on 1 January 1998.

Class: 740-02/96-01/02  
Zagreb, 19 September 1997

HOUSE OF REPRESENTATIVES  
OF THE PARLIAMENT OF THE REPUBLIC OF CROATIA

President of the  
House of Representatives of the Parliament  
Vlatko Pavletić, Member of Academy