



Juvenile Justice System in the Czech republic

Lecture 9. 4. 2019



Structure of Lecture

- Juvenile Justice System – aims, historical background
- Sanctions for juveniles, sanctions for children under 15
- Juvenile procedure – differences from adults
- Cases – discussion about sanctions
- Discussion

Youth (0 - 18)



History of juvenile justice system (not only) in Czech

- The beginnings of a separate juvenile justice system can be linked to 1899, when the first legal trial for juveniles (people under eighteen years) was established in Illinois, US.
- Special youth courts were established almost in the same time period throughout the US, but also in Europe. In Germany, the first special youth courts were established in 1908, in Austria-Hungary in 1909, in France and Belgium in 1912, in Spain in 1918, in the Netherlands in 1921 and in Czechoslovakia in 1931.

- The establishment of special juvenile courts has clearly strengthened the effort to remove delinquent youth from the general criminal laws and practices.
- The concept of the Czechoslovak criminal justice system over youth was created by **the Criminal Justice Act of 1931**, No. 48 Sb. z. a n.
- The law was based on the principle that the state has different tasks for juvenile offenders **aged between fourteen and eighteen years** of age than for adult offenders. The dominant role played education here along with efforts to protect juveniles against all harmful influences that could threaten its future development.
This Act introduced for the first time in our country the independent codification of the criminal law of the youth (criminal substantive and procedural law) and the creation of an independent criminal system over the youth.

Introduction to Juvenile Justice

- Juvenile justice criminal procedure is involved into the law on responsibility of juveniles for illegal acts number 218/2003 Coll. (further only „Juvenile Justice Act /JJA“),
- came into effect on January 1st, 2004.
- extended the application of the principle of restorative justice into Czech criminal law.
- This act covers treatment of the youth. There are two categories of the youth: juveniles and children under 15.

Concept of Transgression

- The minimum age of criminal liability is 15 years of age.
- Juveniles do not commit a crime, but this illegal act is called „**transgression**“.
- Conditions which have to be fulfilled to define an illegal act as transgression:
 - Age
 - Offender does not have to be insane (the offender has to be mentally healthy),
 - The certain level of moral and mental maturity.

- The juvenile who in the time of committing a transgression has not got so rational and moral maturity to differ its seriousness for society is not criminally liable for this transgression. To the connection to adult offender we talk about absolute criminal liability. For example, juvenile at his fifteen who committed a theft, is sane, but his intellectual and moral level is the same as the fourteen years old child, will not be criminally liable.
- This conception of criminal liability is called relative liability.



Basic Principles of JJA

- nullum crimen sine lege
- nulla poena sine lege
- the subsidiarity of the repression
- humanity principle, culpability principle
- protection of personal data

Main Principles defined in JJA

- Restoring broken social relations
- Individual adjustment of measure based on the delinquents' personality, age, situation, etc.
- Strict protection of the juvenile personal data
- compensation of the aggrieved party - It is not necessary to pay for the damage, but it is possible to restore it by other way- for example to get it to the previous status, work for the aggrieved party in the garden, etc.
- The judges, state prosecutors and probation officers have to have a special training for work with juveniles and children under 15 years old.

System of Sanctions

- It is based on the **united system of measures**: educational, protective and criminal.
- The purpose of these measures is to **create conditions** for sociable and personal development of the juvenile with respect of his/her mental and moral level, personal character, family background and protection from the negative effects and prevention from committing other transgressions.
- The measures are **based on restorative justice** principle.
- The main features of measures are addressed to the future, to prevent recidivism.
- The main purposes are formulated in the first sections of the Juvenile Justice Act: Firstly, it is the reaction of the state for committing illegal act, than the prevention for committing other illegal acts and finding the social background and helps the offenders to be useful for society.



Educational measures – section 15 par. 2 JJA

- the supervision of probation officer
- probation programme
- educational duties
- educational restrictions
- final warning



Protective measures - section 21 JJA

- protective treatment
- security detention
- protective education
- seizure of the thing
- Seizure of part of the property

Criminal Measures

- community works
- financial measure
- financial measure with the suspension
- forfeit of the thing
- prohibition of undertaking activities
- prohibition of going to some cultural, sport and other actions
- expulsion
- home arrest
- suspended sentence
- suspended sentence with supervision
- Unconditional imprisonment

Measures Imposed to Children

- educational duties
- educational restrictions
- final warning
- supervision of a probation officer – the conditions are almost the same as in case of juvenile.
- the therapeutical, sociable, psychological or other suitable program in the centre of education,
- protective education
- Protective treatment

Juvenile Procedure - differences

- Requirement defence from the beginning
- Hearing is not public
- Cooperation with the PMS in preliminary procedure
- Use of educational measures during pre-trial by state prosecutor
- Confinement only if there is not another possibility
- Competent court is where the offender has his residence
- Using diversions and other alternative ways

Competences of State Prosecutor

- **Educational measures** can be imposed in pre-trial proceedings
- Use of diversions – more than for adults (next lecture)
- Apart from educational measures, the court can impose protective or criminal measures even if the defendant denies his guilty or refuses to give testimony
- Possibility to be put into the pre-trial custody

„Cases“

- under threat of violence, the juvenile leaves with an expensive car and sells its equipment in the nearest big city. The value of the car is almost 500.000,- crowns
- juvenile steals cosmetics at the store for about 8 thousand crowns
- Juvenile kills a classmate
- Think about the possible sanctions in Czech republic and your country
- Which court will deal with the case?

Summary of Juvenile Justice

- The age of criminal liability is 15.
- Youth are divided into juveniles (15-18) and children
- Juveniles commit a transgression and the punishment for them is called measure (educational, protective or criminal)
- Juvenile procedure is different from adults
- State prosecutor may impose the educative measures even in pre-trial hearing
- Children are not criminal liable but we can impose on them measures too



Questions?

- Thank you for your attention.

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