

**Juvenile Justice Code  
of Kosovo**

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### **PART ONE GUIDING PRINCIPLES AND INTRODUCTORY PROVISIONS**

#### **Chapter I**

#### **Guiding Principles**

##### **Article 1**

- (1) The juvenile justice system shall emphasize the well-being of the juvenile and ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the criminal offence.
- (2) Minor offenders shall be considered for diversion measures where appropriate.
- (3) Deprivation of liberty shall be imposed only as a last resort and shall be limited to the shortest possible period of time. During deprivation of liberty imposed as a penalty, a minor offender shall receive educational, psychological and, if necessary, medical assistance to facilitate his or her rehabilitation.
- (4) A child participating in criminal proceedings shall be given an opportunity to express himself or herself freely.
- (5) Every child deprived of liberty shall be treated with humanity for the inherent dignity of the human person, and in a manner which takes into consideration the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through the correspondence and visits, save in exceptional circumstances as defined by law.
- (6) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before an independent and impartial court, and to prompt proceedings.
- (7) The child's right to privacy shall be respected at all stages in order to avoid harm being caused to him or her by undue publicity or by the process of labelling. In principle, no information that may lead to the identification of a minor offender shall be published.

#### **Chapter II**

#### **Definitions**

##### **Article 2**

For the purposes of the present Code, the following definitions shall apply.

- 1) The “term “child” means a person who is under the age of eighteen years.
- 2) The term “minor” means a person who is between the ages of fourteen and eighteen years.
- 3) The term “young adult” means a person who is between the ages of eighteen years and twenty-one years.
- 4) The term “juvenile” means a child or a young adult.
- 5) The term “adult” means a person who has reached the age of eighteen years.
- 6) The term “specialized education” means an educational programme tailored to the special needs of the offender to promote his or her overall proper development and reduce the chance of recidivism.
- 7) The term “juvenile imprisonment” means a punishment of imprisonment imposed on a minor offender or, in accordance with Chapter IV of the present Code, on an adult.
- 8) The term “special care facility” means an institution that provides treatment for a mental, psychological, social or physical disability.
- 9) The term “Guardianship Authority” means the department operating within the Centre for Social Work that is responsible for the protection of children.
- 10) The term “juvenile judge” means a professional judge who has expertise in criminal matters involving children and young adults and who is competent to exercise the responsibilities set forth in the present Code.
- 11) The term “juvenile panel” means a panel which is constituted in accordance with Chapter XI of the present Code to include at least one juvenile judge and which is competent to exercise the responsibilities set forth in the present Code.

## **Chapter III**

### **Scope of Application**

#### **Article 3**

- (1) The provisions of the present Code shall apply to any person charged with a criminal offence committed as a minor, regardless of his or her age at the time when proceedings are instituted.
- (2) When provided by the present Code, the provisions of the present Code shall apply to any person charged with a criminal offence committed as a young adult.

(3) When an adult is charged with a criminal offence committed as a minor, Articles 41 and 45 of the present Code shall not apply.

#### **Article 4**

The provisions of the Provisional Criminal Code of Kosovo ("Provisional Criminal Code"), the Provisional Criminal Procedure Code of Kosovo ("Provisional Criminal Procedure Code"), the Law on Execution of Penal Sanctions and any other relevant legislation shall apply to minors, unless otherwise regulated by the present Code.

#### **Article 5**

(1) At any time, the juvenile judge may impose appropriate measures to protect the rights and well-being of a child, including placing the child in a shelter or an educational or similar establishment, placing the child under the supervision of the Guardianship Authority or transferring the child to another family, if it is necessary to separate the child from the environment in which he or she has lived or to offer help, assistance, protection or accommodation for the child. The juvenile judge shall inform the Guardianship Authority of any measure imposed

(2) The Guardianship Authority or the authorised representative of a child may request a juvenile judge to impose appropriate measures to protect the rights and well-being of the child.

(3) The costs of accommodation of the minor shall be paid from budgetary resources and shall be included in the costs of criminal proceedings.

## **PART TWO**

### **APPLICABLE MEASURES AND PUNISHMENTS**

#### **Chapter IV**

#### **General Provisions**

#### **Measures and Punishments Applicable to Minors**

#### **Article 6**

(1) The measures that may be imposed on minors are diversion measures and educational measures.

(2) The punishments that may be imposed on minors are fines, orders for community service work and juvenile imprisonment.

(3) Only measures may be imposed on minors who have not reached the age of sixteen years at the time of the commission of a criminal offence.

(4) The duration of any imposed measure or punishment must be established in the decision of the court in accordance with the present Code.

(5) When the court imposes a punishment of juvenile imprisonment of up to two years or a measure of committal to an educational institution or an educational-correctional institution of up to two years, the court may impose a suspended sentence in accordance with the Provisional Criminal Code.

(6) Apart from the imposition of a measure or punishment, a minor may also be subject to a measure or punishment under Chapter IX of the present Code.

### **Selection of Applicable Measures and Punishments**

#### **Article 7**

(1) When selecting any measure or punishment to be imposed on the minor offender, the court shall give primary consideration to the best interest of the minor. The court shall also consider the following factors: the type and gravity of the criminal offence, the age of the minor, the degree of psychological development, his or her character and aptitudes, the motives that induced him or her to commit the criminal offence, his or her education at that stage, the environment and the circumstances of his or her life, whether any measure or punishment has been previously imposed and other circumstances that may affect the imposition of a measure or punishment.

(2) The Probation Service shall prepare a complete social inquiry on the minor upon the request of the public prosecutor, the juvenile judge or the court as provided for in the present Code. The social inquiry shall include information about the minor's age and psychological development, family background, the background and circumstances in which the minor is living, school career, educational experiences, the conditions under which the criminal offence has been committed and any other relevant information.

(3) Prior to the selection of any measure or punishment, the court shall, in all cases except those involving minor offences, request from the Probation Service the social inquiry referred to in paragraph 2 of this article and a recommendation regarding the selection of a measure or punishment.

### **Imposition of measures on a young adult for criminal offences committed as a minor under the age of sixteen years**

#### **Article 8**

(1) Court proceedings cannot be conducted against an adult who has reached the age of twenty-one years for a criminal offence committed as a minor under the age of sixteen years.

(2) Court proceedings can be conducted against a young adult for a criminal offence committed as a minor under the age of sixteen years only if the criminal offence is punishable by imprisonment of more than five years. In such court proceedings, the court may only impose an appropriate institutional educational measure. The general criteria set forth in Article 7 of the present Code shall be considered, as well as the amount of time that has elapsed since the commission of the criminal offence.

**Imposition of measures and punishments on an adult for criminal offences committed as a minor who has reached the age of sixteen years**

**Article 9**

- (1) In court proceedings conducted against an adult for a criminal offence committed as a minor who has reached the age of sixteen years, the court may impose a measure or punishment in accordance with Article 6. The general criteria set forth in Article 7 of the present Code shall be considered, as well as the amount of time that has elapsed since the commission of the criminal offence.
- (2) As an exception to paragraph 1 of this article, instead of juvenile imprisonment, the court may impose a term of imprisonment or a suspended sentence on an adult who has reached the age of twenty-one years at the time of the court proceedings.
- (3) As an exception to paragraph 1 of this article, instead of juvenile imprisonment, the court shall impose a term of imprisonment or a suspended sentence on an adult who has reached the age of twenty-three years at the time of the court proceedings.

**Imposition of measures or punishments on a young adult for criminal offences committed as a young adult**

**Article 10**

- (1) In court proceedings conducted against an adult who has not reached the age of twenty-one years for a criminal offence committed as a young adult, the court may impose a measure or punishment in accordance with Article 6, if it determines that the objective that would be achieved by imposing a term of imprisonment would also be achieved by imposing the measure or punishment, considering the circumstances in which the criminal offence was committed, the expert opinion in relation to the psychological development of the young adult and his or her best interest.
- (2) The measure or punishment which is imposed may only last until the person has reached the age of twenty-three years.

**Effect of punishment on an educational measure**

**Article 11**

- (1) When the court imposes a sentence of juvenile imprisonment on a minor who has reached the age of sixteen years during the execution of an educational measure, the educational measure shall cease when the minor begins to serve the sentence.
- (2) When the court imposes a sentence of juvenile imprisonment or imprisonment of at least one year on an adult during the execution of an educational measure, the educational measure shall cease when the perpetrator begins to serve the sentence.
- (3) When the court imposes a sentence of juvenile imprisonment or imprisonment of less than one year on an adult during the execution of an educational measure, the court shall decide in its judgment whether the educational measure shall continue or be revoked after the sentence of juvenile imprisonment or imprisonment has been served.

## **Records of measures and punishments**

### **Article 12**

- (1) The court shall keep a record of the measures and punishments imposed on a minor. The Probation Service may have a copy of this record.
- (2) Data on the measures and punishments imposed on a minor shall be confidential. Only the court and the public prosecutor's office may obtain such data when it is necessary for conducting proceedings against the same individual while he or she is still a minor.
- (3) The records under paragraph 1 of this Article shall be expunged when the person has reached the age of twenty-one years.
- (4) When a measure or punishment imposed on an adult for a criminal offence committed as a minor is being executed, the record of the measure or punishment shall be expunged immediately upon the termination of the measure or punishment.

## **Chapter V**

### **Diversion measures**

#### **Purpose of diversion measures**

##### **Article 13**

The purpose of diversion measures is to prevent, whenever possible, the commencement of proceedings against a minor offender, to promote the positive rehabilitation and re-integration of the minor into his or her community and thereby prevent recidivist behaviour.

#### **Conditions for the imposition of diversion measures**

##### **Article 14**

- (1) A diversion measure may be imposed on a minor who has committed a criminal offence punishable by a fine or by imprisonment of three years or less.
- (2) The conditions for the imposition of a diversion measure are:
  - 1) Acceptance of responsibility by the minor for the criminal offence;
  - 2) Expressed readiness by the minor to make peace with the injured party; and
  - 3) Consent by the minor, or by the parent, adoptive parent or guardian on behalf of the minor, to perform the diversion measure imposed.
- (3) The failure of the minor to perform the obligations of a diversion measure shall be reported promptly to the competent prosecutor who may decide to recommence the prosecution of the case.

## **Types of diversion measures**

### **Article 15**

The diversion measures that may be imposed on a minor offender are:

- 1) Mediation between the minor and the injured party, including an apology by the minor to the injured party;
- 2) Mediation between the minor and his or her family;
- 3) Compensation for damage to the injured party, through mutual agreement between the victim, the minor and his or her legal representative, in accordance with the minor's financial situation;
- 4) Regular school attendance;
- 5) Acceptance of employment or training for a profession appropriate to his or her abilities and skills;
- 6) Performance of unpaid community service work, in accordance with the ability of the minor offender to perform such work;
- 7) Education in traffic regulations; and
- 8) Psychological counselling.

## **Chapter VI**

### **Educational measures**

#### **Purpose of educational measures**

##### **Article 16**

The purpose of an educational measure is to contribute to the rehabilitation and proper development of a minor offender, by offering protection and assistance and supervision, by providing education and vocational training and by developing his or her personal responsibility, and thereby to prevent recidivist behaviour.

#### **Types and length of educational measures**

##### **Article 17**

- (1) The types of educational measures that may be imposed on a minor offender are disciplinary measures, measures of intensive supervision and institutional measures.
- (2) Disciplinary measures are judicial admonition and committal of a minor to a disciplinary centre. These measures are imposed on a minor offender whose best interest is



served by a short-term measure, particularly if the criminal offence was committed out of thoughtlessness or carelessness.

(3) Measures of intensive supervision are intensive supervision by the parent, adoptive parent or guardian of a minor, intensive supervision in another family and intensive supervision by the Guardianship Authority. These measures are imposed on a minor whose best interest does not require isolation from his or her previous environment and is served by a long-term measure which provides the minor with an opportunity for education, rehabilitation or treatment. The term of this measure may not be less than three months or more than two years.

(4) Institutional educational measures are committal of a minor to an educational institution, committal of a minor to an educational-correctional institution and committal of a minor offender to a special care facility. These measures are imposed on a minor whose best interest is served by isolation from his or her previous environment and by a long-term measure which provides the minor with an opportunity for education, rehabilitation or treatment.

(5) The term of an educational measure may not exceed the maximum term of imprisonment prescribed for the criminal offence.

### **Judicial admonition Article 18**

(1) The court shall impose the measure of judicial admonition when such measure is deemed sufficient and in the best interest of the minor in order to positively influence his or her behaviour.

(2) A minor subject to a judicial admonition shall be informed that he or she has committed a harmful and dangerous act which constitutes a criminal offence and that if he or she commits such act again, the court will impose a more severe measure or punishment.

### **Committal to a disciplinary centre Article 19**

(1) The court shall impose the measure of committal to a disciplinary centre when such measure is deemed sufficient and in the best interest of the minor in order to positively influence his or her behaviour.

(2) The court may commit a minor to a disciplinary centre:

- 1) For a maximum of one month, for up to four hours per day; or
- 2) For a maximum of four days of a school or public holiday, for up to eight hours per day.

(3) When imposing this measure, the court shall ensure that its execution shall not hinder the regular employment or school activities of the minor.

(4) A minor shall be engaged in useful activities at the disciplinary centre. The activities shall be appropriate to his or her age, skills and interests with the aim of developing his or her sense of responsibility.

### **Intensive supervision by a parent, adoptive parent or guardian**

#### **Article 20**

(1) The court shall impose the measure of intensive supervision by the parent, adoptive parent, or guardian, after hearing the parent, adoptive parent or guardian, when the parent, adoptive parent, or guardian is capable of supervising the minor, but has been negligent in such supervision and when such measure is in the best interest of the minor.

(2) When imposing this measure, the court may give the parent, adoptive parent, or guardian necessary instructions and order him or her to fulfil certain duties as part of the measure imposed in order to care for the minor and to effect a positive influence on him or her.

(3) When imposing this measure, the court may order the Probation Service to verify the execution of the measure and to offer the necessary assistance to the parent, adoptive parent, or guardian.

### **Intensive supervision in another family**

#### **Article 21**

(1) The court shall impose the measure of intensive supervision in another family, after hearing the parent, adoptive parent or guardian, when the parent, adoptive parent, or guardian is incapable of carrying out intensive supervision of the minor and when such measure is in the best interest of the minor.

(2) The execution of this measure shall be terminated when the parent, adoptive parent or guardian of the minor becomes able to exercise intensive supervision over him or her or when according to the results of the rehabilitation there is no longer any need for intensive supervision.

(3) When imposing this measure, the court may order the Probation Service to verify the execution of the measure and to offer the necessary assistance to the family exercising supervision.

### **Intensive supervision by the Guardianship Authority**

#### **Article 22**

(1) The court shall impose the measure of intensive supervision by the Guardianship Authority, after hearing the parent, adoptive parent or guardian, when the parent, adoptive parent, or guardian is incapable of carrying out intensive supervision of the minor and when such measure is in the best interest of the minor.

(2) In the execution of this measure, the minor shall remain with the parent, adoptive parent, or guardian.

(3) When imposing this measure, the court will also define the duties of the Guardianship Authority, including:

- 1) Overseeing the minor's education;
- 2) Facilitating access to vocational training and employment;
- 3) Ensuring that the minor is removed from any adverse influences;
- 4) Facilitating access to necessary medical care;
- 5) Providing possible solutions to any problems that might arise in the minor's life; and
- 6) Such other duties as the court determines would be in the best interest of the minor.

### **Special obligations in conjunction with measures of intensive supervision**

#### **Article 23**

(1) When imposing one of the measures under Articles 20, 21 and 22 of the present Code, the court may also impose one or more special obligations if the court determines that it is necessary for the successful execution of the measure, provided that the special obligations do not exceed the term of the measure.

(2) The court may impose the following special obligations on the minor:

- 1) To apologize personally to the injured party;
- 2) To compensate for the damage to the injured party, in accordance with the minor's financial situation;
- 3) To attend school regularly;
- 4) To accept employment or to receive training for a profession appropriate to his or her abilities or skills;
- 5) To refrain from any form of contact with certain individuals likely to have a negative influence on the minor;
- 6) To accept psychological counselling;
- 7) To refrain from frequenting certain places or locations likely to have a negative influence on the minor; and
- 8) To abstain from the use of drugs and alcohol.

(3) The court may, at any time, terminate or modify the special obligations imposed on the minor.

(4) If the minor does not comply with the special obligations under paragraph 2 of this Article, the court may substitute the measure of intensive supervision with another educational measure.

(5) When ordering the special obligations under paragraph 2, the court shall inform the minor that non-compliance may result in the imposition of a more severe educational measure.

### **Committal to an educational institution** **Article 24**

(1) The court shall impose the measure of committal to an educational institution when a minor requires full-time supervision by appropriate educators and when such measure is in the best interest of the minor.

(2) The term of this measure may not be less than three months or more than two years.

### **Committal to an educational-correctional institution** **Article 25**

(1) The court shall impose the measure of committal to an educational-correctional institution when a minor who has committed a criminal offence punishable by imprisonment of more than three years requires specialised education and when such measure is in the best interest of the minor.

(2) When deciding on the imposition of this measure, the court shall consider the gravity and nature of the criminal offence and whether the minor has previously been sentenced to an educational measure or juvenile imprisonment.

(3) The term of this measure may not be less than one year or more than five years.

### **Committal to a special care facility** **Article 26**

The court may impose the measure of committal to a special care facility instead of the measure of committal to an educational institution or an educational-correctional institution upon the recommendation of a medical expert when a minor requires special care due to a mental disorder or physical handicap and it is in the best interest of the minor. The court that has imposed the measure shall review the need for further stay in the special care facility every six months and when the minor reaches the age of eighteen years.

## **Chapter VII**

### **Fines and Orders for Community Service Work**

#### **Fine**

##### **Article 27**

(1) The court may impose the punishment of a fine on a minor if the minor has the means to pay the fine. When determining the punishment of a fine, the court shall consider the material situation of the minor, and, in particular, the amount of his or her personal income, other income, assets and obligations. The court shall not set the level of a fine above the means of the minor.

(2) The punishment of a fine may not be less than 25 European Euros (hereinafter “EUR”) or more than 5.000 EUR.

(3) The judgment shall determine the deadline for the payment of a fine, which may not be less than fifteen days or more than three months, but in justifiable circumstances the court may allow the fine to be paid in installments over a period not exceeding two years.

(4) If the minor is unwilling or unable to pay the fine, the court may allow the fine to be paid in installments over a period not exceeding two years. Thereafter, if the minor remains unwilling or unable to pay the fine, the court may, with the consent of the convicted person, replace the fine with an order for community service work which will not interfere with his or her regular employment or school activities.

#### **Order for community service work**

##### **Article 28**

(1) The court may order community service work with the consent of the minor to replace an institutional educational measure of up to three years, juvenile imprisonment of up to two years or a fine.

(2) When imposing an order for community service work, the court shall order the minor to perform unpaid community service work for a specified term of thirty (30) to one hundred and twenty (120) hours. The Probation Service will determine the type of community service work to be performed by the convicted person, designate the specific organization for which the convicted person will perform the community service work, decide on the days of the week when the community service work will be performed and supervise the performance of the community service work.

(3) The community service work shall be performed within a period specified by the court which shall not exceed one year.

(4) If, upon the expiry of the specified period, the minor has not performed the community service work or has only partially performed such community service work, the court shall order that a proportionate duration of the original term of the institutional educational measure or juvenile imprisonment be executed, considering the duration of community service work that has been performed. In the case of a fine, the court shall order

the payment of a fine proportionate to the duration of the community service work that has not been performed.

## **Chapter VIII**

### **Juvenile imprisonment**

#### **Purpose of juvenile imprisonment**

##### **Article 29**

The purpose of juvenile imprisonment is to contribute to the rehabilitation and development of the minor offender with an emphasis on the minor's education, specialized education, vocational skills, and proper personal development. In addition, juvenile imprisonment should positively influence the minor through protection, assistance and supervision to prevent recidivism.

#### **Imposition of juvenile imprisonment**

##### **Article 30**

The court may impose the punishment of juvenile imprisonment on a minor offender who has reached the age of sixteen years and has committed a criminal offence punishable by imprisonment of more than five years when the imposition of an educational measure would not be appropriate because of the seriousness of the criminal offence, the resulting consequences and the level of responsibility.

#### **Duration of juvenile imprisonment**

##### **Article 31**

(1) The term of juvenile imprisonment cannot exceed the maximum term of imprisonment prescribed for the criminal offence but may be lower than the minimum term of imprisonment prescribed for the criminal offence.

(2) The term of juvenile imprisonment may not be less than six months nor more than five years and shall be imposed in full years and months. The maximum term of juvenile imprisonment shall be ten years for serious criminal offences punishable by long-term imprisonment, or if the minor has committed at least two concurrent criminal offences each punishable by imprisonment of more than ten years.

(3) When deciding on the term of juvenile imprisonment, the court shall consider all the mitigating and aggravating circumstances set forth in Article 64 paragraphs 1 and 2 of the Provisional Criminal Code.

**Conditional release from juvenile imprisonment**  
**Article 32**

- (1) A person sentenced to juvenile imprisonment may be conditionally released if he or she has served at least one-third of the sentence that has been imposed.
- (2) When granting conditional release, the court may impose a measure of intensive supervision by a parent, adoptive parent or guardian, in another family or by the Guardianship Authority to last until the end of the original sentence.
- (3) The court may revoke the conditional release if during the period of conditional release the minor commits a criminal offence for which a term of imprisonment or juvenile imprisonment of at least six months is imposed.

**Statutory limitation on the execution of juvenile imprisonment**  
**Article 33**

The punishment of juvenile imprisonment cannot be executed after the following periods have elapsed:

- 1) Five years from a final decision imposing juvenile imprisonment of more than five years;
- 2) Three years from a final decision imposing juvenile imprisonment of more than three years; and
- 3) One year from a final decision imposing juvenile imprisonment of up to three years.

**Imposition of educational measures and juvenile imprisonment for concurrent criminal offences**  
**Article 34**

- (1) For concurrent criminal offences, the court shall impose only one educational measure or only a punishment of juvenile imprisonment when the legal conditions are fulfilled for the imposition of such punishment and the court finds that it should be imposed.
- (2) Paragraph 1 of this Article shall also apply when the minor has committed another criminal offence before or after the imposition of the educational measure or juvenile imprisonment.

## **Chapter IX**

### **Measures of Mandatory Treatment and Accessory Punishments**

#### **Purpose and Imposition of Measures of Mandatory Treatment Article 35**

- (1) The purpose of a measure of mandatory treatment is to contribute to the rehabilitation of the minor and to prevent the risk of recidivism.
- (2) The court may impose a measure of mandatory psychiatric treatment on a minor in accordance with the Law on Proceedings Involving Perpetrators With a Mental Disorder.
- (3) The court may impose a measure of mandatory rehabilitation treatment on a minor in accordance with Chapter V of the Provisional Criminal Code
- (4) A measure of mandatory treatment shall be imposed only after consultation with the Probation Service, the Guardianship Authority and appropriate experts.
- (5) A measure of mandatory treatment cannot be imposed simultaneously with a disciplinary measure.

#### **Imposition of Accessory Punishments Article 36**

The court may impose an accessory punishment in accordance with Articles 54 – 62 of the Provisional Criminal Code, where appropriate.

## **PART THREE**

### **PROCEDURE**

## **Chapter X**

### **General Provisions**

#### **Article 37**

- (1) The authorities or institutions that participate in proceedings involving minors, as well as other persons and institutions from which notifications, reports or opinions are sought are obliged to proceed expeditiously and without any unnecessary delay.
- (2) A minor who has been detained on remand shall be brought as speedily as possible for adjudication.



### Article 38

Proceedings shall not be initiated against a child under the age of fourteen years. If the child is under the age of fourteen years at the time of the commission of the criminal offence, any proceedings that have been initiated shall be immediately terminated, and the Guardianship Authority shall be notified of the case.

### Article 39

- (1) A minor shall not be adjudicated in absentia.
- (2) When undertaking an action at which a minor is present, and especially at his or her examination, the authorities participating in the proceedings are obliged to act carefully, taking into account the psychological development, sensitivity and the personal characteristics of the minor, so that the conduct of the proceedings does not have an adverse effect on his or her development.

### Article 40

- (1) The minor must have a defence counsel in the following cases of mandatory defence:
  - 1) From the first examination;
  - 2) From the ruling on the commencement of the preparatory proceedings, if the preparatory proceedings are conducted for a criminal offence punishable by imprisonment of more than three years; and
  - 3) From the ruling on the commencement of the preparatory proceedings for other criminal offences for which a less severe punishment is provided, if the juvenile judge considers that the minor needs a defence counsel.
- (2) In a case of mandatory defence, if the minor, the legal representative or his or her family member does not engage a defence counsel, the juvenile judge or the competent authority conducting the proceedings shall appoint *ex officio* a defence counsel at public expense.
- (3) In a case of mandatory defence, if the minor remains without a defence counsel in the course of the proceedings and if he or she fails to obtain another defence counsel, the juvenile judge or the competent authority conducting the proceedings shall appoint *ex officio* a new defence counsel at public expense.
- (4) If the conditions are not met for mandatory defence, a defence counsel shall be appointed at public expense at the request of the minor, the legal representative or his or her family member, if he or she is unable to pay for the cost of his or her defence. The appointment of defence counsel at public expense shall not be against the will of the minor.
- (5) The minor shall be instructed on the right to defence counsel at public expense under the previous paragraph before the first examination.

- (6) Only a defence counsel registered at the Bar Association can represent a minor.

#### **Article 41**

(1) The parents, adoptive parents or guardian shall be entitled to accompany the minor in all proceedings and may be required to participate if it is in the best interest of the minor. The juvenile judge may exclude a parent, adoptive parent or guardian from participation in proceedings if such exclusion is in the best interest of the minor.

(2) When the parents, adoptive parents or guardian of the minor do not exercise their parental duties, the court may nominate a temporary guardian for the minor.

(3) The courts shall keep a record, prepared by the Centre for Social Work, of social workers, teachers, pedagogues, or volunteer specialists, from which the temporary guardian shall be nominated in cases under paragraph 2 of this article.

#### **Article 42**

The minor shall undergo a general medical examination prior to the commencement of any period of detention on remand to ensure that his or her health is consistent with detention on remand.

#### **Article 43**

No one may be exempted from the duty to testify concerning the circumstances necessary for the evaluation of the psychological development of the minor and for a familiarity with his or her personality and the conditions in which he or she lives.

#### **Article 44**

(1) When a minor has participated in the commission of a criminal offence with an adult, the proceedings against the minor shall be severed and conducted according to the provisions of the present Code.

(2) Exceptionally, the proceedings against the minor can be joined to the proceedings against an adult and can be conducted in accordance with the general provisions of the Provisional Criminal Procedure Code, only if joinder of the proceedings is essential for a comprehensive clarification of the case. A juvenile panel of the competent court shall issue a ruling on this on the reasoned motion of the public prosecutor or the defence counsel. The parties may appeal the ruling to the court of second instance within three days of the receipt of the ruling.

(3) When joint proceedings are conducted against a minor and an adult perpetrator, the provisions of Article 37, Articles 39-43, Article 45, Article 46, Article 47 paragraphs 1, 2 and 3, Articles 62-66 and Article 69 of the present Code shall always be applied in regard to the minor when questions relating to the minor are being clarified in a hearing and Articles 77

and 78 of the present Code shall always be applied in regard to the minor, while other provisions of the present Code shall be applied if their application is not in conflict with the conduct of joint proceedings.

#### **Article 45**

(1) In proceedings against minors, irrespective of the powers which have been explicitly provided for in the provisions of the present Code, the Guardianship Authority is entitled to be notified of the course of the proceedings and to submit motions and state facts and evidence which are important for rendering a correct decision.

(2) The public prosecutor shall notify the competent Guardianship Authority whenever proceedings against a minor are initiated.

#### **Article 46**

(1) The minor shall be summoned in person and through his parent, adoptive parent or guardian.

(2) The service of decisions and other written documents on the minor shall be carried out in accordance with Article 127 of the Provisional Criminal Procedure Code. However, documents shall not be served on the minor by being displayed on the bulletin board of the court, and the provisions of Article 123 paragraph 2 of the Provisional Criminal Procedure Code shall not be applied.

#### **Article 47**

(1) All proceedings involving minors shall be confidential. No recording of the proceedings, including audio- or video-recording, may be made public without the written authorisation of the court.

(2) Only the part of the decision rendered in the proceedings authorised for publication shall be made public.

(3) When an authorised part of recorded proceedings or of the decision is made public, personal data that can be used to identify the minor shall not be revealed under any circumstances.

(4) The provisions of this article shall apply to proceeding involving adults tried for criminal offences committed as minors.

#### **Article 48**

The competent authority in the field of judicial affairs may designate a court which will be competent at first instance for all criminal matters concerning minors on the territories of several courts.

## **Chapter XI**

### **Composition of Juvenile Panels**

#### **Article 49**

- (1) A juvenile panel in the court of first instance and the juvenile panel in the court of second instance, except for panels in the Supreme Court of Kosovo, shall be composed of a juvenile judge and two lay judges. The juvenile judge shall be the presiding judge of the panel.
- (2) A juvenile panel in the Supreme Court of Kosovo shall be composed of three judges, including at least one juvenile judge. When a juvenile panel adjudicates at a main trial, it shall be composed of two juvenile judges and three lay judges.
- (3) The lay judges in a juvenile panel shall be selected from among professors, teachers, educators, social workers, psychologists and other persons who have experience in the upbringing of minors.
- (4) Lay judges participating in a juvenile panel shall be of different genders.

#### **Article 50**

- (1) The public prosecutor may suspend the prosecution of a criminal offence and impose a diversion measure if the conditions under Article 14 are fulfilled. Before deciding on a diversion measure, the prosecutor shall summon the minor, his or her parents, adoptive parents or guardian and defence counsel.
- (2) The juvenile judge may impose a diversion measure if the conditions under Article 14 are fulfilled. Before deciding on a diversion measure, the juvenile judge shall summon the minor, his or her parents, adoptive parents or guardian and defence counsel. If the juvenile judge decides to impose a diversion measure, any ongoing proceedings shall be stayed.

#### **Article 51**

The court of second instance shall have jurisdiction:

- 1) To decide on an appeal against a decision of the juvenile panel rendered at first instance;
- 2) To decide on an appeal against a decision of the public prosecutor;
- 3) To decide on an appeal against a decision of the juvenile judge; and
- 4) In other cases, as provided for by law.

## **Article 52**

- (1) As a rule, the court within whose territory a minor has a permanent residence shall have territorial jurisdiction for proceedings against the minor.
- (2) If a minor does not have a permanent residence or if it is unknown, the court within whose territory the minor has current residence shall have territorial jurisdiction.
- (3) Proceedings may be conducted before the court within whose territory a minor has current residence, even though he or she has a permanent residence, or before the court within whose territory the criminal offence has been committed, if it is clear that the proceedings will be conducted more easily before that court.

## **Chapter XII**

### **Preparatory Proceedings**

## **Article 53**

- (1) The public prosecutor shall initiate preparatory proceedings against a specified minor on the basis of a police criminal report, a criminal report from other persons or other sources, if there is a reasonable suspicion that the minor has committed a criminal offence.
- (2) Preparatory proceedings for criminal offences prosecuted on the basis of a motion for prosecution or a private charge shall only be initiated by the public prosecutor if the injured party has submitted a motion to initiate proceedings to the public prosecutor within the prescribed period of time provided for in Article 54 of the Provisional Criminal Procedure Code.

## **Article 54**

- (1) For criminal offences punishable by imprisonment of less than three years or a fine, the public prosecutor may decide not to initiate preparatory proceedings, even though there is a reasonable suspicion that the minor committed the criminal offence, if the prosecutor considers that it would not be appropriate to conduct the proceedings against the minor in view of the nature of the criminal offence, the circumstances under which it was committed, the absence of serious damage or consequences for the victim, as well as the minor's past history and personal characteristics.
- (2) When a punishment or measure is being executed against a minor, the public prosecutor may decide not to initiate preparatory proceedings for another criminal offence of the minor, if, having regard to the seriousness of that criminal offence as well as to the punishment or measure which is being executed, the conduct of proceedings and the imposition of a punishment or measure for that criminal offence would not serve any purpose.

(3) If the public prosecutor decides not to initiate preparatory proceedings, he or she shall notify the Guardianship Authority.

(4) In order to ascertain the circumstances under paragraph 1 of this article, the public prosecutor may request that the Probation Service conduct the social inquiry provided for in Article 7 of the present Code. If it is necessary, the prosecutor may summon the parent, adoptive parent or guardian and the minor, as well as other persons and institutions and the injured party.

(5) If, for any reason, it is not possible to have the social inquiry under paragraph 4 of this Article completed before taking a decision on the appropriateness of the initiation of preparatory proceedings, the public prosecutor shall secure the necessary information under Article 7 of the present Code and may consult with the Probation Service about his or her decision.

### **Article 55**

(1) Preparatory proceedings shall be initiated by a ruling of the public prosecutor. The ruling shall specify the minor against whom the preparatory proceedings will be conducted, the time of the initiation of the preparatory proceedings, a description of the act which specifies the elements of the criminal offence, the legal name of the criminal offence, the circumstances and facts warranting the reasonable suspicion of a criminal offence, evidence and information already collected and a report on any measure or punishment previously imposed on the minor. A stamped copy of the ruling on the preparatory proceedings shall be sent without delay to the juvenile judge.

(2) Chapter XXV of the Provisional Criminal Procedure Code shall apply *mutatis mutandis* to the conduct of preparatory proceedings.

### **Article 56**

(1) The juvenile judge shall appoint an appropriate mental health expert when it is necessary to establish the state of the minor's mental health either at the time of the commission of the criminal offence or the competency of the minor to stand trial or both. The juvenile judge may make such appointment *ex officio* or on the request of the public prosecutor, defence counsel, parents, adoptive parents or guardian. The examination shall be carried out in an appropriate and confidential environment. The opinion of the mental health expert shall be confidential and shall only be disclosed to the court and the parties.

(2) The juvenile judge may request the Probation Service to conduct a social inquiry.

### **Article 57**

(1) During the course of preparatory proceedings, the juvenile judge shall guarantee the rights of the minor.

(2) The defence counsel and the parent, adoptive parent or guardian of the minor may attend actions undertaken in the preparatory proceedings. When such persons are present at such actions, they may submit motions and put questions to the person who is being examined. The juvenile judge may grant approval for a representative of the Guardianship Authority to attend actions undertaken in the preparatory proceedings.

(3) The examination of the minor, when necessary, shall be undertaken with the assistance of a child guidance counsellor or any other qualified professional.

### **Article 58**

(1) The public prosecutor shall terminate the preparatory proceedings if at any time it is evident from the evidence collected that:

1) There is no reasonable suspicion that the minor has committed the indicated criminal offence;

2) The period of statutory limitation for criminal prosecution has expired;

3) The criminal offence is covered by an amnesty or pardon;

4) The conditions set forth in Article 54(1) of the present Code are present; or

5) There are other circumstances that preclude prosecution.

(2) The public prosecutor shall immediately notify the juvenile judge of the termination of the preparatory proceedings. The public prosecutor shall also immediately notify the minor of the termination of the preparatory proceedings unless no action has been undertaken in the preparatory proceedings.

### **Article 59**

If the preparatory proceedings are not completed within a period of six months, the public prosecutor shall submit to the juvenile judge a written application supported by reasoning for an extension of the preparatory proceedings. The preparatory proceedings may be extended in accordance with Article 225 of the Provisional Criminal Procedure Code.

### **Article 60**

Before completing the preparatory proceedings, the prosecutor shall notify the defence counsel of his or her intention to complete the proceedings within fifteen days. During this period, the defence counsel may submit a request to consider new facts or evidence (Article 57, paragraph 2). If the prosecutor grants the request, the preparatory proceedings shall not be completed and a new notification of the completion of the proceedings shall be necessary. If no request is submitted, the proceedings shall be completed within the time period communicated to the parties. The prosecutor may not accept a request to consider new facts or evidence after the completion of the preparatory proceedings.

### **Article 61**

(1) After completing the preparatory proceedings, the public prosecutor may file a reasoned motion with the juvenile panel for the imposition of an educational measure or a punishment.

(2) The public prosecutor's motion must contain the following: the personal data of the minor, a description of the criminal offence, the legal name of the criminal offence with an indication of the provisions of the Provisional Criminal Code, the evidence indicating that the minor committed the criminal offence, the results of any social inquiry conducted by Probation Service and a motion for the imposition of an educational measure or punishment against the minor.

## **Chapter XIII**

### **Provisional Arrest, Police Detention and Detention on Remand**

#### **Article 62**

The provisional arrest, police detention or detention on remand of a minor shall be ordered only as a measure of last resort for the shortest time possible.

#### **Article 63**

(1) The police may arrest and detain a minor in accordance with Chapter XXIV of the Provisional Criminal Procedural Code.

(2) The provisional arrest or police detention of a minor cannot exceed a period of 24 hours. On the expiry of that period, the police shall release the minor unless a juvenile judge has ordered detention on remand.

#### **Article 64**

(1) As an exception, a juvenile judge may order detention on remand against a minor if the grounds in Article 281 of the Provisional Criminal Procedure Code are present and if alternatives to detention on remand would be insufficient to ensure the presence of the minor, to prevent re-offending and to ensure the successful conduct of the proceedings. The juvenile judge shall consider whether the measures listed in Article 5 of the present Code or Article 268(1) of the Provisional Criminal Procedure Code may be ordered as alternatives to detention on remand. The ruling on detention on remand of a minor shall provide a reasoned explanation for the insufficiency of alternatives to detention on remand.

(2) A minor may be held in detention on remand on the initial ruling for a maximum of one month from the day he or she was arrested. The detention on remand of a minor may only be extended by a juvenile panel of the competent court for an additional period of up to two months.



(3) The juvenile panel of the competent court shall review the ruling on detention on remand within one month from the issuance of the ruling. Such review shall be conducted in the presence of the minor, his or her defence counsel and the public prosecutor.

### **Article 65**

(1) Minors held in detention on remand in a detention facility shall be separated from adult detainees.

(2) A minor held in detention on remand may be held in an educational-correctional institution, if the juvenile judge considers this to be in the best interest of the minor.

(3) While in detention on remand, the minor shall receive social, educational, vocational, psychological, medical and physical assistance, as required in view of his or her age, gender and personality.

### **Article 66**

(1) Articles 279 – 297 of the Provisional Criminal Procedure Code shall apply *mutatis mutandis* to the detention on remand of minors.

(2) The juvenile judge shall have the same authority with respect to minors in detention on remand which the pre-trial judge has under the Provisional Criminal Procedure Code with respect to adults in detention on remand.

## **Chapter XIV**

### **Main Trial**

### **Article 67**

(1) When the juvenile panel receives a motion of the public prosecutor, the juvenile judge may issue a ruling to dismiss the motion or to transfer the matter to another court, if the conditions set forth in paragraphs 1 to 3 of Article 316 of the Provisional Criminal Procedure Code exist.

(2) If the juvenile judge does not issue a ruling to dismiss the motion or to transfer the matter to another court, he or she shall schedule the main trial within eight days of the receipt of the motion.

(3) At any time, the juvenile panel may terminate the proceedings at the main trial by a ruling and impose a diversion measure if the conditions under Article 14 are fulfilled. Before deciding on a diversion measure, the juvenile panel shall summon the minor, his or her parents, adoptive parents or guardian and defence counsel.

### **Article 68**

- (1) The minor, the defence counsel and the public prosecutor shall be present at the main trial.
- (2) In addition to the persons referred to in Article 321 of the Provisional Criminal Procedure Code, the parent, adoptive parent or guardian, a representative of the Guardianship Authority and a representative of the Probation Service shall be summoned to the main trial. The failure of such persons to appear shall not prevent the court from holding the main trial.
- (3) The provisions of the Provisional Criminal Procedure Code regarding the amendment and extension of the charge shall also apply in proceedings against a minor. However, the juvenile panel is authorised to render a decision even if the public prosecutor has not modified his or her motion or prepared a new motion, on the basis of the evidence presented in the main trial indicating that the factual situation as described in the motion has changed.

### **Article 69**

- (1) The public shall always be excluded when a minor is being tried.
- (2) The juvenile panel may allow the main trial to be attended by experts and persons who are professionally involved in the welfare and education of minors or in combating the criminal behaviour of minors.
- (3) During the main trial, the juvenile panel may order that all or certain persons be removed from the session with the exception of the minor, the public prosecutor, the defence counsel, the representative of the Guardianship Authority and the representative of the Probation Service. The juvenile panel may order that the parent, adoptive parent or guardian be removed from the session only in exceptional circumstances if there are reasons to believe that such exclusion is in the best interest of the minor.
- (4) The provisions of this article shall apply to proceedings involving adults tried for offences committed as minors.

### **Article 70**

- (1) The main trial shall be adjourned or recessed only in exceptional cases. The juvenile judge shall notify the president of the court of every adjournment or recess of the main trial and shall state the reasons thereof.

### **Article 71**

- (1) The juvenile panel is not bound by the motion of the public prosecutor in rendering its decision on the type of measure or punishment to be imposed.

(2) The juvenile panel shall terminate the proceedings at the main trial by a ruling, when the grounds set forth in Articles 389 and 390 of the Provisional Criminal Procedure Code exist.

(3) The juvenile panel shall impose an educational measure on the minor by a ruling. The enacting clause of the ruling shall state only the order for an educational measure and any other measure or punishment in Chapter IX of the present Code and the minor shall not be pronounced guilty of the criminal offence described in the motion of the public prosecutor. The explanation of the ruling shall contain a description of the criminal offence and the circumstances which justify the imposition of the educational measure.

(4) The juvenile panel shall impose a punishment on a minor by a judgment. The judgment shall be rendered as provided under Article 391 of the Provisional Criminal Procedure Code. The judgment shall also include an order for any measure or punishment in Chapter IX of the present Code.

### **Article 72**

The juvenile judge shall draw up the ruling or judgment in writing within three days of its announcement.

### **Article 73**

(1) The court may order the minor to pay the costs of proceedings and to satisfy property claims only if it has imposed a punishment on the minor. If educational measures have been imposed upon the minor, the costs of the proceedings shall be paid from budgetary resources and the injured party shall be referred to civil litigation to realize property claims.

(2) If the minor has his or her own financial income or property, the court may order the minor to pay the costs of proceedings and to satisfy property claims even where educational measures have been imposed.

### **Article 74**

Part Four of the Provisional Criminal Procedure Code shall apply *mutatis mutandis* to the main trial of minors and the rulings and judgments issued in respect of minors.

## **Chapter XV**

### **Legal Remedies**

### **Article 75**

(1) The persons referred to in Article 399 of the Provisional Criminal Procedure Code may appeal a ruling imposing diversion measures, a ruling terminating the proceedings at the

main trial, a ruling imposing an educational measure, a judgment imposing a punishment and a judgment or ruling imposing a measure under Chapter IX of the present Code. This appeal may be filed within eight days from the day of the receipt of the ruling or judgment.

(2) The defence counsel, the public prosecutor, the spouse, the parent, adoptive parent or guardian, a relation by blood in a direct line to any degree, the brother or the sister may file an appeal on behalf of the minor, even against his or her will.

(3) A minor cannot waive his or her right of appeal.

(4) An appeal against a ruling imposing an educational measure served in an institution suspends the execution of the measure. The court may decide to execute the measure notwithstanding an appeal if it determines that this is in the best interest of the minor, after hearing the minor and his or her parents, adoptive parents or guardian.

### **Article 76**

(1) The court of second instance may modify the appealed decision by imposing a more severe measure only if so requested in the appeal by the public prosecutor.

(2) If the ruling or judgment in the first instance did not impose juvenile imprisonment, the court of second instance may impose juvenile imprisonment only if a hearing is held. If the ruling or judgment in the first instance did not impose an institutional educational measure, the court of second instance may impose an institutional educational measure only if a hearing is held.

### **Article 77**

A request for the protection of legality may be filed both in cases under Article 451 of the Provisional Criminal Procedure Code and when a punishment or an educational measure has been imposed upon a minor in breach of the provisions of the law.

### **Article 78**

The provisions on the reopening of criminal proceedings terminated by a final ruling or a final judgment as provided in Article 438 of the Provisional Criminal Procedure Code shall apply *mutatis mutandis* to the reopening of proceedings terminated by a final ruling terminating the proceedings at the main trial, a final ruling imposing an education measure and a final judgment imposing a punishment.

## **PART FOUR**

### **EXECUTION OF MEASURES AND PUNISHMENTS**

#### **Chapter XVI**

##### **Execution of Diversion Measures**

###### **Article 79**

- (1) When the prosecutor, the juvenile judge or the court imposes a diversion measure, the ruling and all other relevant information shall be sent to the competent Probation Service to execute this measure.
- (2) The authority which imposed the diversion measure shall supervise the execution of the diversion measure.
- (3) If the minor fails to perform an obligation ordered as a diversion measure, the Probation Service shall verify the facts and the reasons for the failure to perform the obligation and shall inform the authority which imposed the diversion measure and the competent public prosecutor.

#### **Chapter XVII**

##### **Execution of Education Measures**

###### **1. General principles on the execution of educational measures**

###### **Article 80**

- (1) The court which imposed the educational measure (“competent court”) shall have jurisdiction to supervise the execution of the educational measure and issue orders in relation to the execution of the educational measure.
- (2) The Probation Service which is located in the territory where the minor has permanent or current residence (“competent Probation Service”) shall have jurisdiction to exercise responsibilities in relation to the execution of the educational measure. The competent Probation Service shall retain jurisdiction even if the permanent or current residence of the minor subsequently changes.

###### **Article 81**

- (1) An educational measure shall be executed with respect for the personality and dignity of the minors, encouraging their physical, moral and intellectual development and protecting their physical and mental health.

(2) An educational measure shall be executed based on an individual programme adapted to the personality of the minor as far as possible and designed in accordance with modern achievements of knowledge and practice.

(3) The individual programme is designed on the basis of a comprehensive analysis of the special characteristics of the minor, the causes and the type of the criminal offence and other forms of behavioural difficulties as well as the educational level, the development of the minor and the circumstances of his or her family life.

(3) The individual programme shall contain motivating means that are adapted to the personal characteristics of the minor, enrollment in education and vocational training, free time activities, activity with the parents, adoptive parents, the guardian or other family members of the minor and other means of exercising influence on the minor.

## **Article 82**

(1) The expenses of executing educational measures shall be paid from budgetary resources.

(2) The parents or persons who are obliged by law to care for the minor shall be obliged to contribute to paying the expenses of executing educational measures.

(3) The level of contribution of the parents or the persons who are obliged by law to care for the minor shall be determined by the court when it renders a ruling imposing the educational measure. If determining the level of contribution requires a more detailed study of the financial situation of the parents or persons who are obliged to care for the minor, the court shall first render a decision imposing the educational measure and then continue the procedure for determining the level of contribution.

(4) The competent court may change the decision on the level of the contribution if circumstances subsequently change.

## **Article 83**

(1) An educational measure shall be executed after the final decision of the court and when there are no legal obstacles to its execution, unless provided otherwise by the present Code.

(2) The court shall deliver the final decision to the authorised institution or individual for execution within three days from the day when the decision became final, together with a birth certificate, school certificate or transfer paper, report of medical examination, data from the criminal file on prior criminal offences, proceedings conducted and reports issued by the Probation Service.

(3) The authorised institution or individual receiving the sentence for execution shall begin execution of sentence within three days from receipt of the sentence.

- (4) The competent court shall maintain records on every minor on whom it has imposed an educational measure.

#### **Article 84**

During the execution of an educational measure, the competent court may impose appropriate measures to protect the rights and well-being of a minor, including placing the minor in a shelter or an educational or similar establishment, placing the minor under the supervision of the Guardianship Authority or transferring the minor to another family. The court shall inform the Guardianship Authority of any measure imposed.

### **2. Execution of a measure of committal to a disciplinary centre**

#### **Article 85**

The measure of committal to a disciplinary centre for minors shall be executed in a special educational institution.

#### **Article 86**

- (1) A parent, adoptive parent or guardian shall ensure regular visits by a minor to the disciplinary centre.
- (2) The disciplinary centre shall immediately inform the competent court when a minor fails to report in a timely manner to the disciplinary centre or that he stops visiting it regularly.
- (3) The disciplinary centre shall maintain a record on the execution of the education measure which shall be delivered for inspection to the competent court and the competent Probation Service.

### **3. Execution of a measure of intensive supervision by a parent, adoptive parent or guardian**

#### **Article 87**

The execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian begins when the parent, adoptive parent or guardian receives the final ruling on the imposition of the educational measure.

#### **Article 88**

- (1) The parent, adoptive parent or guardian shall obey the orders and instructions of the court which has imposed the educational measure and shall allow the Probation Service to verify the execution of the educational measure, when such verification is ordered by the court.

- (2) A dispute between parents, adoptive parents or guardian of a minor and the Probation Service shall be resolved before the competent court.

#### **Article 89**

- (1) The parent, adoptive parent or guardian of a minor and the Probation Service shall inform the competent court on the progress of the execution of the educational measure according to the terms ordered by the court.
- (2) The Probation Service shall inform the competent court without delay of the failure of the minor to comply with a special obligation imposed pursuant to Article 23 of the present Code and of any obstacle to the execution of the educational measure.

### **4. Execution of a measure of intensive supervision in another family**

#### **Article 90**

- (1) The competent court shall designate the family in which a minor subject to the measure of intensive supervision in another family is to be placed, upon the motion of the competent Probation Service.
- (2) Before submitting the motion, the Probation Service shall examine the personality of the minor and the social and psychological structure of the family in which he or she is to be placed.
- (3) Under the same conditions, priority shall be granted to a family to which the minor is related or is emotionally attached.

#### **Article 91**

- (1) The Probation Service and the family in which the minor shall be placed shall conclude a written agreement that regulates their mutual rights and obligations.
- (2) The family in which the minor is to be placed shall permit the Probation Service to verify the execution of the educational measure, when such verification is ordered by the court.



### **Article 92**

During the execution of the educational measure of intensive supervision in another family, the minor shall maintain permanent connections with his or her family, unless the competent court orders otherwise on the motion of the Probation Service.

### **Article 93**

The competent court may, *ex officio*, or upon the motion of the Probation Service, order a change of the placement of the minor, if the circumstances in the family in which the minor is placed have changed to such extent that the execution of the educational measure is made difficult.

### **Article 94**

The provisions of the present Code on the execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian shall apply *mutatis mutandis* to the execution of the educational measure of intensive supervision in another family.

## **5. Execution of a measure of intensive supervision by the Guardianship Authority**

### **Article 95**

- (1) The competent Guardianship Authority is authorized to execute the educational measure of intensive supervision by a Guardianship Authority.
- (2) The Guardianship Authority shall, immediately after receiving the ruling imposing the educational measure, designate the official of the Guardianship Authority responsible for execution of the measure and notify the competent court immediately of this.

### **Article 96**

- (1) The courts, public prosecutors' offices, schools and other institutions shall assist and cooperate with the Guardianship Authority in the execution of this educational measure.
- (2) The parent, adoptive parent or a foster parent of the minor shall inform the Guardianship Authority of any obstacle to the execution of the educational measure.
- (3) The Guardianship Authority shall inform the competent court without the delay of the failure of the minor to comply with a special obligation imposed pursuant to Article 23 of the present Code and of any obstacle to the execution of the educational measure.

### **Article 97**

The provisions of the present Code on the execution of the educational measure of intensive supervision by a parent, adoptive parent or guardian shall apply *mutatis mutandis* to the execution of the educational measure of intensive supervision by the Guardianship Authority.

## **6. General provisions on institutional educational measures**

### **Article 98**

A minor who is subject to an institutional educational measure shall have the same rights as an adult who is sentenced to imprisonment in addition to the rights provided for by the present Code.

### **Article 99**

- (1) On the request of the minor or his or her parent, adoptive parent or guardian, or on the motion of the Probation Service, the execution of an institutional educational measure may be stayed for just cause.
- (2) The competent court shall decide on the stay of the execution.
- (3) An appeal against a ruling at first instance on the stay of the execution may be filed with the court of second instance within three days from receipt of the ruling.

### **Article 100**

- (1) A request or motion for a stay of execution stays the execution of an institutional educational measure until the final ruling on the request or motion.
- (2) If the court on rejecting a request which has been submitted a second time determines that the right of request is being abused, the court shall decide that the appeal does not stay the execution of the institutional educational measure.

### **Article 101**

The provisions in the Law on Execution of Penal Sanctions on the stay of execution of a sentence of imprisonment shall apply *mutatis mutandis* to the stay of execution of an institutional educational measure.

### **Article 102**

- (1) On the request of a minor or his or her parent, adoptive parent or guardian or on the motion of the director of the institution where the institutional education measure is being

executed, the institutional educational measure may be suspended for justifiable reasons for up to three months. Exceptionally, for the purpose of treatment the suspension may last until the completion of the treatment.

(2) The competent court shall decide on the suspension.

(3) An appeal against the ruling at first instance may be filed with the court of second instance within three days from receipt of the ruling.

### **Article 103**

(1) A court shall suspend execution of the institutional educational measure also when the minor has been committed for the execution of the measure, before the ruling on the request or motion for a stay of execution of the measure enters into force and later it is established that the request or motion was grounded.

(2) In such a case the duration of the execution of the institutional educational measure is not to be counted in the length of the suspension of the execution of the institutional educational measure.

### **Article 104**

An institutional educational measure shall not be considered to be executed during the period of the suspension of the institutional educational measure.

### **Article 105**

The provisions of the Law on Execution of Penal Sanctions on the suspension of execution of a sentence of imprisonment shall apply *mutatis mutandis* to the suspension of execution of an institutional educational measure.

## **7. Execution of the measure of committal to an educational institution**

### **Article 106**

(1) The educational measure of committal to an educational institution shall be executed in an institution for the education of juveniles.

(2) A minor who is subject to an educational measure has the same rights and duties as the other minors in the educational institution. Only the director of the educational institution and the educator in charge of the minor shall be informed that the educational measure was imposed on the minor.

### **Article 107**

- (1) The competent Probation Service is authorized to order the minor to report to the educational institution.
- (2) In its ruling on ordering the minor to report to the educational institution the competent Probation Service shall designate a person who is required to transport the minor to the educational institution.

### **Article 108**

- (1) If execution of the educational measure cannot begin or continue because the minor refuses to comply with the educational measure or escapes, the Probation Service shall immediately inform the competent court and the authorized police station, which shall transport the minor to the educational institution.
- (2) The method of transporting the minor to the educational institution shall not violate his or her dignity.

## **8. Execution of the measure of committal to an educational-correctional institution**

### **Article 109**

- (1) The educational measure of committal to an educational-correctional institution shall be executed in an educational-correctional institution established for this purpose. An educational-correctional institution is a correctional facility of the semi-confined type.
- (2) Females who are subject to this education measure shall be accommodated in the female section of the educational-correctional institution.
- (3) Adults who are subject to this educational measure, as well as minors who reach the age of eighteen years in the educational-correctional institution, shall be accommodated in a special section of the educational-correctional institution.

### **Article 110**

- (1) The competent court shall order in writing the minor to report to the educational-correctional institution on a specific day for the execution of the educational measure.
- (2) The period of time between the receipt of the order and the day of reporting shall be no less than eight days and no more than fifteen days.
- (3) The competent court shall inform the educational-correctional institution of the date on which the minor shall report and shall serve the final decision along with personal information about the minor collected during the proceedings.

### **Article 111**

- (1) If a minor who has been properly summoned does not report at the educational-correctional institution, the court shall order that he or she be transported to the educational-correctional institution. If the convicted person hides or is in flight, the court shall order the issuance of a wanted notice.
- (2) The method of transporting the minor to the educational institution shall not violate his or her dignity.

### **Article 112**

- (1) When the minor is admitted to an educational-correctional institution, his or her identity and the grounds and authority for the educational measure shall first be established and then he or she shall undergo a medical examination within 24 hours of arrival. The name of the minor, the grounds and authority for the educational measure and the date and time of his or her arrival at the correctional facility shall be recorded in a register.
- (2) The minor shall then be sent to the section for personal examination for no more than sixty days for the purpose of establishing an individualized programme. The programme for dealing with minors shall be established by an expert team at the educational-correctional institution.

### **Article 113**

- (1) Minors are assigned to educational groups in accordance with their age, mental development, and other personal characteristics and in accordance with features of their individualized programme.
- (2) An educational group has at most twenty minors and a special educator.

### **Article 114**

- (1) A minor has the right to exercise sufficiently in order to remain healthy and to spend at least three hours daily outside closed premises during free time.
- (2) A minor shall have a secured environment for playing sports, exercising and other physical activities.
- (3) The competent public entity in the field of judicial affairs shall issue a directive which shall regulate the implementation of the provisions set forth in paragraphs 1 and 2 of this article.

### **Article 115**

If there are no lessons of a certain kind or educational level in the educational-correctional institution, a minor shall be permitted to attend lessons outside the educational-correctional institution if such attendance is not harmful to the execution of the educational measure and the decision is justified by the minor's previous educational progress.

### **Article 116**

- (1) A minor shall have the right to receive a visit at least once each week for a minimum of one hour by his or her parent, adoptive parent, guardian, spouse, child, adopted child, and other relatives by blood in a direct line or in a collateral line to the fourth degree.
- (2) A minor shall have the right to receive a visit at least twice per month by other persons who will not have a negative influence on execution of the measure.
- (3) The director of the educational-correctional institution has the authority to prohibit visits for justified reasons in accordance with a directive issued by the competent public entity in the field of judicial affairs.

### **Article 117**

- (1) A minor has the right to daily and weekly rest in accordance with the general provisions.
- (2) A minor has the right to an annual vacation of thirty days which may be taken outside the premises of the educational-correctional institution.
- (3) The director of the educational-correctional institution may grant a minor additional leave from the educational-correctional institution on educational, occupational, family and other social grounds for a maximum of fifteen days each year.

### **Article 118**

- (1) The provisions on the disciplinary procedures and punishments applicable to persons sentenced to imprisonment set forth in the Law on Execution of Penal Sanctions shall apply *mutatis mutandis* to a minor subject to a measure of committal to an educational-correctional institution.
- (2) A minor may not be subject to solitary confinement as a disciplinary punishment.
- (3) A minor may be accommodated in a special unit of the educational-correctional institution as a disciplinary punishment under the following conditions:
  - 1) The period of accommodation in a special unit may not exceed fifteen days;
  - 2) The minor shall not be accommodated alone in the special unit;

3) The minor shall be entitled to exercise his or her right to spend at least three hours daily outside closed premises during free time (Article 114 of the present Code) and to receive visits (Article 116 of the present Code);

4) The minor shall have access to textbooks and other books; and

5) The minor shall be visited by a medical officer and educator once a day and by the director of the educational-correctional institution twice every seven days.

## **9. Execution of measure of committal to a special care facility**

### **Article 119**

A minor sentenced to the educational measure of committal to a special care facility due to mental disorder or physical handicap shall be sent to an appropriate facility of social protection, where he or she has the same rights and duties as the other minors accommodated in the institution.

### **Article 120**

The competent Probation Service is authorized to send the minor to the special care facility.

### **Article 121**

(1) If execution of the educational measure cannot begin or continue because the minor refuses to comply with the educational measure or escapes, the Probation Service shall immediately inform the competent court and the competent police station, which shall transport the minor to the institution.

(2) The method of transporting the minor to the educational institution shall not violate his or her dignity. A medical officer shall accompany the minor when he or she is being transported to the special care facility.

### **Article 122**

(1) The special care facility shall inform the competent Probation Service and the competent court on the progress of the execution of the educational measure.

(2) The facility shall specially inform the competent court of the medical condition of the minor when he or she reaches the age of eighteen years.

## **10. Review, substitution and termination of educational measures**

### **Article 123**

(1) Every six months, the director of the institution or facility where an institutional educational measure is executed shall submit to the competent court and the competent Probation Service a report on the behavior of the minor and the success in the execution of the measure. The director shall, depending on the success in the execution of the measure, submit a motion for amending or terminating the execution of the educational measure.

(2) Every six months, the juvenile judge shall visit the minors accommodated in an institution or facility and, through direct contact with the minors and the officers directly involved in executing institutional educational measures and reviewing the records of the institution or facility, establish whether the minors are treated correctly and in accordance with the law and whether the institutional educational measures have been successful.

(3) The juvenile judge shall immediately inform the competent Probation Service and the institution or facility executing the institutional educational measure about any deficiencies or other observations. Upon receiving such information, the Probation Service shall immediately carry out the appropriate checks and undertake measures to correct the illegalities and irregularities and to inform the competent court about the actions undertaken.

### **Article 124**

(1) The competent court that has imposed an educational measure shall review the execution of an educational measure every six months.

(2) The minor, his or her parent, adoptive parent or guardian, the centre, institution or facility where the educational measure is executed or the Probation Service may request a review of the execution of an educational measure.

(3) The juvenile panel of the competent court shall issue a decision on the request referred to in paragraph 2 of the present article within eight days of the receipt of the request. An appeal against the decision may be filed with the court of second instance within three days from receipt of the decision.

(4) During the review, the competent court shall consider the reports of the Probation Service and of the director of the institution or facility where an institutional educational measure is executed and shall hear the minor, his or her parent, adoptive parent or guardian, the defence counsel, public prosecutor, and the Probation Service.

(5) On the basis of the review, the court may decide to continue or terminate the execution of the educational measure, or substitute it for a less severe educational measure.

(6) As an exception to paragraph 5 of the present article, the court may substitute an education measure with a more severe educational measure where the minor has failed to comply with a special obligation imposed pursuant to Article 23 of the present Code.



## **Article 125**

- (1) If, after a ruling on imposing an educational measure has been rendered, additional circumstances, new evidence or evidence which existed but which was not known at the time the decision was rendered comes to light which would clearly have affected the selection of the measure, the court shall review the ruling and may terminate the execution of the measure or may substitute it with another educational measure. The court may not impose a more severe measure on the basis of newly-considered evidence.
- (2) If the execution of an educational measure has not commenced within one year from the date on which the decision imposing the measure becomes final, the court shall review the decision and decide whether to execute or to terminate the measure or to substitute it with another educational measure. The court may not impose a more severe measure.
- (3) If, through no fault of the minor, the execution of the measure of committal to a disciplinary centre has not commenced within six months from the date on which the decision imposing the measure becomes final, the measure shall not be executed.
- (4) A review of an educational measure pursuant to the present article shall be conducted in accordance with Article 124.

## **11. Complaints and petitions**

### **Article 126**

The provisions in the Law on Execution of Penal Sanctions on the submission of complaints and petitions by convicted persons sentenced to imprisonment shall apply *mutatis mutandis* to the submission of complaints and petitions by minors subject to the educational measures of committal to a disciplinary centre, a committal to an educational institution, committal to an educational-correctional institution or committal to a special care facility.

## **Chapter XVIII**

### **Execution of Sentences**

#### **1. Execution of Fines**

### **Article 127**

- (1) The provisions in the applicable Law on Execution of Penal Sanctions on the execution of fines shall apply *mutatis mutandis* to the execution of fines imposed on minors.
- (2) A fine imposed on a minor which is unpaid may not be replaced by a term of imprisonment.

## **2. Execution of Orders for Community Service Work**

### **Article 128**

- (1) The provisions in the applicable Law on Execution of Penal Sanctions on the execution of a suspended sentence with an order for community service work shall apply *mutatis mutandis* to the execution of orders for community service work imposed on minors.
- (2) If it is in the interest of the minor, the Probation Service may seek assistance from or cooperation with the Guardianship Authority or the legal representative of the minor.
- (3) Special attention should be paid to ensuring that the completion of community service work does not prevent regular school attendance or other important activities.

### **Article 129**

- (1) The Probation Service staff shall submit a written report to the court that has imposed the punishment on the performance of the community work and any obstacles in the execution of this measure.
- (2) If the minor cannot complete the community service work because of a subsequent change in circumstances for which he or she is not responsible, the Probation Service shall ask the court to review the order for community service work.
- (3) The court may, in view of the results achieved, amend the order or terminate the execution of the measure.

## **3. Execution of juvenile imprisonment**

### **Article 130**

- (1) The provisions of the present Code regulating sending, admission, stay and suspension of execution, allocation to educational groups, rights to visit and participation in physical exercise, determination of work and education, the possibility of regular schooling, disciplinary punishment of minors in educational-correctional institutions and procedures for complaints and petitions shall also be applied to the execution of the punishment of juvenile imprisonment.
- (2) The provisions in the Law on Execution of Penal Sanctions on the execution of a sentence of imprisonment shall apply *mutatis mutandis* to the execution of juvenile imprisonment where they are not in conflict with the present Code.
- (3) A minor who has been sentenced to juvenile imprisonment shall have the same rights as an adult who is sentenced to imprisonment in addition to the rights provided for by the present Code.

### **Article 131**

(1) During the time they serve their sentences, minors shall be provided with appropriate vocational training based on their knowledge, skills, interests and current work, and depending on the limits of the correctional facility. The bases of the treatment are involvement in work that is educationally beneficial and with an appropriate remuneration, facilitating and encouraging contacts between the minor and the outside world through letters, telephone, receiving visits, going on home visits, sports activities and providing necessary conditions for religious practice.

(2) The professional staff of the service treating the minor shall have an adequate knowledge in the fields of pedagogy and psychology.

### **Article 132**

(1) Juvenile imprisonment shall be served in a correctional facility for minors, and, in exceptional cases, in separate departments of a correctional facility for adults. A correctional facility for minors shall be of the semi-confined type. Exceptionally minors may serve a sentence of juvenile imprisonment in correctional facilities of the confined type.

(2) Males and females shall serve their sentences of juvenile imprisonment in separate correctional facilities or in separate departments of those facilities.

(3) Minors who become adults during the execution of the punishment of juvenile imprisonment shall be accommodated in a separate department of the facility. Minors shall serve their sentences of juvenile imprisonment in a correctional facility for minors until they have reached the age of twenty-three years. If at that age they have not served the full sentence, they shall be transferred to a correctional facility for adults. In exceptional cases, convicted persons who have reached the age of twenty three years may be allowed to remain in a correctional facility for minors if this is necessary for the completion of their education or vocational training, or if the remainder of the sentence to be served is not more than six months. However, they can under no circumstances remain in a correctional facility for minors after reaching the age of twenty-seven years.

(4) Adults on whom juvenile imprisonment has been imposed shall be accommodated in a separate department of the facility.

(5) Every year, the director of the facility where juvenile imprisonment is executed is obliged to submit a report to the court that has imposed juvenile imprisonment on the behaviour of the minor and the execution of juvenile imprisonment.

### **Article 133**

(1) As a rule, minors shall serve their sentences together.

(2) Upon the request of a minor, the director of the correctional facility may permit the minor to be separated from other convicted persons if the director determines that the

concerns underlying the minor's request are reasonable and there are no other alternatives for addressing the minor's concerns.

(3) The director of the correctional facility may order a minor to be separated from other convicted persons, without the request of the minor for such separation, only if such measure is necessary:

1) To avert danger to the life or health of the minor or other persons; or

2) To avert a threat to the security of the correctional facility posed by the continued presence of the minor in the general prison population.

(4) The provisions in the Law on Execution of Penal Sanctions on separation from other convicted persons shall apply *mutatis mutandis* to the separation of a minor from other convicted persons.

#### **Article 134**

(1) In accordance with a directive issued by the competent public entity in the field of judicial affairs, the director of a facility may authorize a minor to take leave twice each year to visit to his or her parents, adoptive parents, guardian spouse, children, adopted child, brothers and sisters.

(2) The leave shall last up to thirty days and as a rule it shall be authorized when lessons are not being held.

#### **Article 135**

(1) A minor has the right to spend at least three hours daily outside closed premises.

(2) A minor shall not be subject to solitary confinement as a disciplinary punishment.

#### **Article 136**

The juvenile panel in the district court of the territory where the punishment is being served shall decide on a petition for judicial protection against the measures and decisions of the director of the correctional facility in which the convicted person is serving the sentence of juvenile imprisonment.

## **Chapter XIX**

### **Assistance after Execution of Institutional Educational Measures or Juvenile Imprisonment**

#### **Article 137**

(1) During the entire time that an institutional educational measure or juvenile imprisonment is being executed, the Probation Service shall maintain regular contact with the minor, his or her family and the institution or facility in which the minor is accommodated.

(2) No later than three months before the release of the minor, the institution or the correctional facility where the institutional educational measure or juvenile imprisonment is being executed shall inform his or her parents, adoptive parents or guardian and the Probation Service about this and shall propose to them measures for the reception of the minor.

#### **Article 138**

(1) The parent, adoptive parent or guardian of the minor shall inform the competent Probation Service of the release of the minor.

(2) The Probation Service shall offer assistance to the minor after release for as long as he or she needs it. If it is in the interest of the minor, the Probation Service may seek assistance from or cooperation with the Guardianship Authority or the legal representative of the minor.

#### **Article 139**

(1) After the release of a minor, the Guardianship Authority shall take special care of a minor who has no parents and of a minor whose family circumstances are not settled.

(2) The care shall include, in particular, accommodation, food, the acquisition of clothes, medical treatment, the regulation of family circumstances, the completion of vocational training and employment of the minor.

## **Chapter XX**

### **Execution of Measures of Mandatory Rehabilitation Treatment or Mandatory Psychiatric Treatment**

#### **Article 140**

(1) The provisions of the Law on Execution of Penal Sanctions on the execution of a measure of mandatory rehabilitation treatment and the provisions of the applicable law on the execution of a measure of mandatory psychiatric treatment imposed on adults shall apply *mutatis mutandis* to the execution of these measures imposed on minors.

- (2) A minor shall serve a measure of mandatory treatment in a separate department of the health care institution where these measures are executed.

## **PART FIVE**

### **PROCEEDINGS INVOLVING CRIMINAL OFFENCES COMMITTED AGAINST CHILDREN**

#### **Chapter XXI**

##### **Trial of Adults for Criminal Offences Committed Against Children**

##### **Article 141**

The juvenile panel and juvenile judge shall try adults for the following criminal offences committed against a child, as provided in the Provisional Criminal Code:

- 1) Rape (Article 193);
- 2) Commission of Sexual Acts by Threat to Honour or Reputation (Article 194);
- 3) Sexual assault (Article 195);
- 4) Degradation of Sexual Identity (Article 196);
- 5) Sexual Abuse of Persons with Mental or Emotional Disorders or Disabilities (Article 197);
- 6) Sexual Abuse of Persons Under the Age of Sixteen Years (Article 198);
- 7) Promoting Sexual Acts or Sexual Touching By Persons Under the Age of Sixteen Years (Article 199);
- 8) Sexual Abuse by Abusing Position, Authority or Profession (Article 200);
- 9) Facilitating Prostitution (Article 201);
- 10) Abuse of Children in Pornography (Article 202);
- 11) Showing Pornographic Material to Persons under the Age of Sixteen Years (Article 203);
- 12) Sexual Relations within Family Units (Article 204);
- 13) Cohabiting with Persons Under the Age of Sixteen Years in Extramarital Community (Article 208);
- 14) Changing the Family Status of a Child (Article 209);

- 15) Unlawful Abduction of a Child (Article 210);
- 16) Mistreating or Abandoning a Child (Article 211);
- 17) Violating Family Obligations (Article 212);
- 18) Avoiding Maintenance Support (Article 213);
- 19) Prevention and Non-Execution of Measures for Protecting Children (Article 214);
- 20) Conscription or Enlisting of Persons between the Age of Fifteen and Eighteen Years in Armed Conflict (Article 123);
- 21) Establishing Slavery, Slavery-like Conditions and Forced Labour (Article 137);
- 22) Trafficking in persons (Article 139); and
- 23) Withholding Identity Papers of Victims of Slavery or Trafficking in Persons (Article 140).

#### **Article 142**

- (1) Proceedings against a person who commits a criminal offence under Article 141 of the present Code against a child shall be conducted in accordance with the provisions of the Provisional Criminal Procedure Code, except that the provisions on the issuance of a punitive order (Chapter XLI of the Provisional Criminal Procedure Code) shall not apply.
- (2) Police officers who specialize in criminal offences against minors shall investigate such criminal offences.

#### **Article 143**

- (1) When conducting proceedings involving a criminal offence committed against a child, the authorities or institutions shall act with particular care in relation to the child who suffered harm from the criminal offence, bearing in mind his or her age, personal characteristics, education and the environment in which he or she lives, so as to avoid any possible harmful consequences for his or her upbringing and development. The examination of the child shall be conducted with the assistance of a pedagogue, psychologist or another expert.
- (2) If a child against whom a criminal offence referred to Article 141 of the present Code is committed is examined as a witness, such examination shall be conducted at most twice. The examination shall be conducted with the assistance of a pedagogue, psychologist or another expert. The court may order that the witness be examined outside the courtroom by means of closed circuit television.

(3) A child against whom a criminal offence referred to Article 141 of the present Code is committed may be examined as a witness in his or her own home or some other location where he or she is present or a Centre for Social Work rather than in the court. Paragraph 2 of this article shall apply to such examination.

(4) Any technical recording of the examination conducted by closed circuit television under paragraph 2 of this article shall be destroyed within five years of the entry into force of the judgment.

(5) Article 47 of the present Code shall apply *mutatis mutandis* to proceedings involving a criminal offence committed against a child.

#### **Article 144**

The juvenile judge shall inform the competent Guardianship Authority of the facts and evidence that were established in the criminal proceedings to have contributed to or facilitated the commission of the criminal offence so that appropriate measures for the protection of the rights and the well-being of the child can be undertaken.

#### **Article 145**

If it is established during criminal proceedings that the parent is abusing or grossly neglecting parental duties and rights or is violating the rights of the child, the prosecutor shall initiate non-contentious proceedings to remove the rights of parental care from the parent.

#### **Article 146**

(1) Article 48 of the present Code shall apply *mutatis mutandis* to adjudicating at first instance a criminal offence committed against a child.

(2) As a rule, the court within whose territory the injured party has a permanent residence shall have territorial jurisdiction for proceedings involving criminal offences committed against a child whereas proceedings may be conducted before the court within whose territory the criminal offence has been committed if the proceedings will be conducted more easily before that court.

#### **Article 147**

Article 49 of the present Code shall apply *mutatis mutandis* to adjudicating a criminal offence under Article 141 of the present Code committed against a child.

#### **Article 148**

(1) The juvenile panel of the municipal court and the juvenile panel of the district court at first instance shall be composed of a juvenile judge and two lay judges. When the juvenile



panel adjudicates at first instance a criminal offence punishable by imprisonment of at least fifteen years or by long-term imprisonment, it shall be composed of two judges, of whom one is a juvenile judge, and three lay judges.

(2) The juvenile panel of the Supreme Court of Kosovo shall be composed of three judges when adjudicating at the second instance. When the juvenile panel is adjudicating at the main trial a criminal offence punishable by imprisonment of at least fifteen years, it shall be composed of five judges, of whom three are judges for minors, whereas when it adjudicates at second instance with a hearing, the juvenile panel shall be composed of two judges for minors and three lay judges. When adjudicating at third instance and deciding on extraordinary legal remedies, the panel shall be composed according to the Provisional Criminal Procedure Code.

(3) In cases without a hearing, the panel shall be composed according to the Provisional Criminal Procedure Code. However, at least one member of the panel shall be a juvenile judge.

(4) The judge in summary proceedings is the juvenile judge of the municipal court.

### **Article 149**

Proceedings involving a criminal offence under Article 141 of the present Code committed against a child shall be conducted expeditiously and without unnecessary delay.

## **PART SIX**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Chapter XXII**

##### **Transitional and Final Provisions**

### **Article 150**

An institutional education measure which has been imposed by a final decision before the date of the entry into force of the present Code cannot last longer than the period of time provided by the present Code.

### **Article 151**

Juvenile imprisonment, which has been imposed by a final decision before the date of the entry into force of the present Code for a longer period of time than could be imposed in accordance with Article 31, paragraph 2 of the present Code, shall be reduced in accordance with the provisions of the present Code.

### **Article 152**

Preparatory proceedings initiated before 6 April 2004 but which were not completed by this date shall be continued and finished according to the provisions of the previous applicable law.

### **Article 153**

(1) Criminal proceedings at first instance under Part Three of the present Code in which the motion of the public prosecutor was filed before 6 April 2004 but which were not completed by this date shall be continued according to the provisions of the previous applicable law until

- 1) The criminal proceedings are dismissed in a final form by a ruling; or
- 2) The judgment rendered at the main trial becomes final.

(2) Criminal proceedings at first instance under Part Five of the present Code in which the indictment, summary indictment or private charge was filed before the date of entry into force of the present Code but which have not been completed by this date shall be continued according to the provisions of the previous applicable law until

- 1) The criminal proceedings are dismissed in a final form by a ruling; or
- 2) The judgment rendered at the main trial becomes final.

### **Article 154**

Upon the entry into force of the present Code, if any prescribed period of time is running, such period shall be counted pursuant to the provisions of the present Code, except if the previous period of time was longer or the provisions of the present Chapter provide otherwise.

### **Article 155**

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Code.

### **Article 156**

The present Code shall supersede any provision of the applicable law which is inconsistent with it.

**Article 157**

The present Code shall enter into force on 20 April 2004.