

**CODE No. 06/L –006**

**JUVENILE JUSTICE CODE**

**Assembly of the Republic of Kosovo,**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts

**JUVENILE JUSTICE CODE**

**FIRST PART  
GENERAL PROVISIONS**

**CHAPTER I  
BASIC PRINCIPLES AND DEFINITIONS**

**Article 1  
Purpose of Code**

1.The purpose of this Code is that within the criminal procedure, a measure or sentence is imposed against juveniles, as persons committing a criminal act, ensuring achievement of his best interest, or that such juvenile's interest is achieved without carrying out the criminal procedure against him/her, respectively by suspending of the proceeding initiated against the juvenile when the reasons require so, and when such non-prosecution of the juvenile or such suspension of proceedings against him/her may be conditioned with fulfilment of certain liabilities by the juvenile. Furthermore, guaranteeing and respecting of their rights and freedoms envisaged by the Constitution of the Republic of Kosovo, the Convention on the Rights of the Child and other international agreements in the justice system, based on:

- 1.1. respecting of fundamental human rights and freedoms;
- 1.2. stopping discrimination of any basis;
- 1.3. presumption of innocence;
- 1.4. respecting of child's rights so as to freely express his/her opinion;
- 1.5. avoiding restriction of personal freedom of juveniles at the highest possible extent;
- 1.6. fostering and prioritizing application of education measures against sentence in prison;
- 1.7. promoting and respecting of child friendly approach as well as the manner of acting against juveniles giving priority to education and re-socialization;

1.8. giving special importance to capacity enhancement and specialization through multidisciplinary approach and institutional cooperation.

2. This Code is in compliance with the:

2.1. DIRECTIVE 2013/48/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty;

2.2. DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA;

2.3. DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA;

2.4. DIRECTIVE (EU) 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings;

2.5. DIRECTIVE 2012/13/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 May 2012 on the right to information in criminal proceedings.

## **Article 2** **Scope of Code**

This Code regulates the action against the juvenile as a person committing a criminal act, children involved and juveniles as participants in the procedure, bodies that implement criminal procedure and execution of measures and sentence against the juvenile offender, as well as protection of juveniles and children that are victims of and harmed by criminal act.

## **Article 3** **Definitions**

1. Terms used in this Code shall have the following meanings:

**1.1. Child** - a person who is under the age of eighteen (18) years;

**1.2. Juvenile** – a person who has reached fourteen (14) years old, but not eighteen (18) years old.

**1.3. Young juvenile**- a person who has reached fourteen (14) years old, but not sixteen (16) years old.

- 1.4. **Adult juvenile**- a person who has reached sixteen (16) years old, but not eighteen (18) years old;
- 1.5. **Young adult**- a person who has reached eighteen (18) years old, but not twenty-one (21) years old;
- 1.6. **Adult** – a person who has reached the age of eighteen (18) years;
- 1.7. **Specialized education** – an educational program tailored to the special needs of the offender, which seeks to assist his holistic adequate development and reduce the chance of recidivism;
- 1.8. **Juvenile imprisonment**– a punishment of imprisonment imposed on a juvenile offender or, in accordance with the Second Part, Chapter VII of the present Code, on an adult;
- 1.9. **Special health care facility** – an institution that provides treatment for the mentally disabled juvenile offender;
- 1.10. **Guardianship Authority** – the department operating within the Centre for Social Work that is responsible for the protection of children;
- 1.11. **Juvenile judge** – a judge who has expertise in criminal matters involving the juvenile, child and young adult and who is competent to exercise the responsibilities set forth in the present Code. The Juvenile judge is appointed at the preparatory procedure stage as a chairperson of the body or panel at all stages of the criminal procedure;
- 1.12. **Juvenile State Prosecutor** – a State Prosecutor who has expertise in criminal matters involving the juvenile, child and young adult, prosecution of adult offenders for the offences caused to juveniles, and who is competent to exercise the responsibilities set forth in the present Code;
- 1.13. **Juvenile panel** – a panel which is constituted of three (3) judges of which the president is a juvenile judge that judges during the trial;
- 1.14. **Juvenile Collegiate** - a collegiate which is constituted of three (3) judges of which the president is a juvenile judge that takes decisions outside the trial;
- 1.15. **Probation service**- the institution which does the execution of measures and alternative penalties, as well as other tasks defined by the Law;
- 1.16. **Mediator** - the neutral third person who facilitates the victim and the offender to assist parties through communication reach appropriate solution regarding disagreement;
- 1.17. **Child victim or witness** - a person under the age of eighteen (18) years old who is a victim or witness of a criminal act;
- 1.18. **Child under the age of criminal responsibility** – the child who at the time of committing of the criminal act has not reached fourteen (14) years old;

1.19. **Victim advocate** – the authorized representative for defending the interests of child victims;

1.20. **Juvenile advocate** – the advocate licensed by the Kosovo Chamber of Advocates;

1.21. **Deprivation of liberty** – any form of detention or imprisonment or putting the person under an environment of arrest or police detention, and this person may not leave it upon his will, based on a decision of any court, administrative authority or other public authority;

1.22. **Re-victimization** – the situation in which a person suffers more than a criminal incident for a certain period of time.

2. Where there is uncertainty regarding the age of the pretended offender, respectively whether he/she is under or above the minimal age of criminal responsibility, he or she shall be considered as under such an age. Where the uncertainty continues regarding that whether the pretended offender is a child or an adult, he or she shall be considered a child.

3. Terms used in this Code for physical persons in the masculine gender shall mean the same terms in the feminine gender.

#### **Article 4** **Basic Principles**

1. The best interest shall be the prevailing consideration during the whole procedure and actions taken against the child and juvenile.

2. The juvenile justice system shall seek 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 offender and the criminal offence.

3. Juvenile offenders shall be considered for diversion measures and educational measures where appropriate, giving priority to alternative measures and sanctions in relation to criminal sanctions.

4. Deprivation from liberty shall be imposed only as a last resort and shall be limited to the shortest possible period of time. During the time of deprivation from liberty imposed as a penalty, a juvenile offender shall receive educational, psychological and, if necessary, medical assistance to facilitate his rehabilitation.

5. A child participating in criminal proceedings shall be given an opportunity to express himself or herself freely.

6. Every juvenile 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 personal needs of his age. In particular, every juvenile deprived of liberty shall be separated from adults unless it is considered in the best interest of the child not to do so and shall have the right to maintain contact with his family through the correspondence and visits, save in exceptional circumstances as defined by Law.

7. Every juvenile deprived of his 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 liberty before an independent and impartial court, and to prompt proceedings.

8. 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 juvenile offender or re-victimization of the victim shall be published.

9. The procedure against a juvenile and the procedure where the juvenile is harmed with criminal offence shall be urgent. The authorities that participate in a procedure against juvenile and other authorities and institutions from which notifications, reports and opinions are required are obliged to act urgently.

10. Failure to act according to the procedure set forth in paragraph 9 of this Article, as well as failure to follow the timeframes envisaged in this Code, may be considered as a disciplinary violation, in accordance with the relevant provisions of the legislation in force.

11. The procedure against children and juveniles shall be carried out and implemented in accordance with the child friendly approach concept.

#### **Article 5** **Scope of Application**

1. The provisions of the present Code shall apply to any person charged with a criminal offence committed as a juvenile, regardless of his age at the time when proceedings are instituted, as well as in the proceeding involving child victims or witnesses set forth in the present Code.

2. The provisions of the present Code shall apply to any person charged with a criminal offence committed as a young adult in cases set forth by the present Code.

3. When an adult is charged with a criminal offence committed as a juvenile, Articles 42 and 45 of the present Code shall not apply.

4. The provisions of the present Code shall apply to any adult person for criminal offences committed against children.

#### **Article 6** **Subsidiary application of other laws**

In the criminal proceedings, on issues not regulated otherwise by the present Code, the provisions of the Criminal Code of the Republic of Kosovo, the Kosovo Code of Criminal Procedure, the Law on Execution of Penal Sanctions and other criminal legal provisions shall appropriately apply to juvenile offender and child victims or witnesses.

#### **Article 7** **Determination of protection measures**

1. At any time, the juvenile judge or a juvenile judicial panel may impose appropriate measures to protect the rights and well-being of a juvenile, including placing the juvenile in a shelter

or an educational or similar establishment, placing the juvenile under the supervision of the Guardianship Authority or transferring the juvenile to another family, if it is necessary to separate the juvenile from the environment in which he has lived or to offer help, assistance, protection or shelter for the juvenile. The juvenile judge or the juvenile judicial panel shall inform the Guardianship Authority of any measure imposed.

2. The provisions of paragraph 1 of this Article shall also apply accordingly for child victim and witnesses.

3. The Guardianship Authority or the authorized representative of a child by may request a juvenile judge or juvenile judicial panel to impose appropriate measures to protect the rights and well-being of the child.

4. The costs for applying the protection measures of the juvenile set forth in paragraph 1 of this Article shall be paid from budgetary resources.

## **SECOND PART**

### **ACTION WITH THE JUVENILE AND CHILD**

#### **CHAPTER I**

#### **HELP AND PROTECTION MEASURES FOR THE CHILD AS AN OFFENDER OF A CRIMINAL OFFENCE UNDER THE AGE OF CRIMINAL RESPONSIBILITY**

##### **Article 8**

##### **Procedure of child protection under the age of criminal responsibility**

1. For a child under the age of fourteen (14) years old no court proceedings shall be initiated. If the child is under the age fourteen (14) years old at the time of committing the criminal offence, any commenced court proceedings shall be immediately ceased and the Guardianship Authority shall be informed of the case by the police upon consultation with the juvenile state prosecutor.

2. Based on paragraph 1 of this Article, the Guardianship Authority in cooperation and coordination with other institutions shall undertake certain actions in compliance with the applicable legislation on child protection in handling offenders under the age of fourteen (14) years old.

3. In a timeframe not longer than seven (7) days, and in emergency cases not later than twenty-four (24) hours from receiving the information or making aware in regard to committing of any serious criminal offence or repeated offences, the police shall inform and require from the Guardianship Authority undertaking urgent appropriate measures for handling and protecting the child offender. This urgent helping measure shall cease at the moment when the Guardianship Authority prepares the regular programme for protection and handling.

4. Based on paragraphs 2 and 3 of this Article, by a legal act issued by the Government of the Republic of Kosovo, there shall be regulated the way of protection of child offenders under the age of criminal responsibility, protection programme, protection of child under the age of criminal responsibility in urgent situations, mediation between peers, legal assistance and handling of

this category of children, always being based on the best interest of the children.

## **CHAPTER II MEDIATION**

### **Article 9 Procedure on mediation**

1. The State Prosecutor for juveniles may propose mediation if he considers it to be more appropriate taking into account the nature of criminal offence, circumstances under which the criminal offence was committed, history of the juvenile, possibility of returning to a normal relation between the juvenile and the injured party, possibility to reduce the damage of the injured party, possibility of rehabilitation of the juvenile and his/her reintegration to society.
2. Mediation may be proposed to the parties in the proceeding if they have expressed their consent on mediation.
3. Prior to the parties being instructed in the mediation procedure, the State Prosecutor for juveniles shall inform the parties on the principles and rules of mediation, as well as on the process and legal effects of any agreement that may be reached through mediation in compliance with the Law on Mediation and the Code on Criminal Procedure accordingly.
4. When the juvenile offender and the injured party express their consent for mediation, this consent shall be recorded in the record.
5. The juvenile and the injured party by agreement shall assign the mediator, in case they are not able to reach an agreement, the mediator by a decision shall be appointed by the juvenile State Prosecutor from the list of mediators in compliance with the Law on Mediation as well as with the provisions of the present Code.
6. Upon receiving the ruling appointing the mediator, the mediator shall set contact with the juvenile offender and the injured party then he shall commence the mediation procedure.
7. The mediation procedure may not last more than thirty (30) days from the day of issuance of the ruling. The State Prosecutor for juveniles shall be officially notified on the result of mediation.
8. If the mediation procedure is unsuccessful, then the proceeding shall continue from where it was suspended.
9. The mediation procedure for juveniles is charge free for the parties. The costs of the mediation procedure, including payment of the mediator, whilst in cases when the mediator is appointed by the State Prosecutor for juveniles, the costs of the procedure shall be paid from the budget of Kosovo Prosecutorial Council.
10. The payment of costs for the mediation procedure and mediators shall be paid in accordance with the Law on mediation and sub-legal acts issued for its implementation.

**Article 10**  
**Finalization of the mediation procedure**

1. The mediation procedure shall be finalized when:
  - 1.1. mediation is completed successfully;
  - 1.2. the timeframe of thirty (30) days has passed;
  - 1.3. mediator considers that continuing the mediation procedure is not possible or unreasonable;
  - 1.4. the juvenile or injured party state that they want to terminate the procedure.
2. When mediation is unsuccessful, the State Prosecutor for juveniles that proposed mediation shall resume the suspended procedure from the moment of its suspension.
3. When mediation is successful, the criminal report shall be dismissed by a ruling and the State Prosecutor for juveniles shall inform the parties about their decision.
4. In case the parties reach an agreement on compensation of the damage, then it shall be submitted to the Juvenile State Prosecutor, and if he approves it, the agreement shall constitute an executive title and shall be executed in compliance with the applicable Law.

**Article 11**  
**Juvenile Mediator**

1. Juvenile Mediator is a physical person who shall assist parties to reach an agreement, with no right to impose solution of the dispute, in compliance with the principles of will, impartiality, equality of parties, transparency, efficacy and justice.
2. Juvenile Mediator may be an advocate, lawyer, social worker, pedagogue, psychologist or a person with a different occupation who fulfils the following requirements:
  - 2.1. a university diploma;
  - 2.2. at least 5 (five) years work experience with juveniles;
  - 2.3. no ban should have been imposed in exercising of profession, activity or duty, or no other punishment for criminal offence that makes him inappropriate to exercise the profession;
  - 2.4. certificate on training issued by the competent body regarding completion of training for mediator for juveniles; and
  - 2.5. registered in the relevant mediator's register.
3. Provisions for expelling of a judge set by Criminal Procedure Code shall also be applied



accordingly for expelling of a mediator. No complaint is allowed against this ruling.

4. Expelling of a mediator may be requested by juvenile, parent, adoptive parent, guardian, defending advocate and injured party.

5. The request for expel shall be decided by the body that appointed the mediator.

6. No complaint is allowed against the ruling on rejection of expelling of the mediator.

7. The provisions of the Law on mediation shall be appropriately applied in the mediation procedure carried out based on the provisions of the present Code.

### **CHAPTER III TYPES OF MEASURES AND PUNISHMENTS**

#### **Article 12**

#### **Measures and punishments applied to juveniles**

1. The measures that may be imposed on juveniles are: diversion measures and educational measures.

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

3. Punishment may not be imposed on juveniles who have not reached the age of sixteen (16) 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 (2) years or a measure of committal to an educational-correctional institution of up to two (2) years, the court may impose a suspended sentence in accordance with the Criminal Code of the Republic of Kosovo.

6. Apart from the imposition of a measure or punishment, a juvenile may also be subject to a measure or punishment under Part Two, Chapter VIII of the present Code.

#### **Article 13**

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

1. When selecting any measure or punishment to be imposed on the juvenile offender, the court shall give primary consideration to the best interest of the juvenile. The court shall also consider the following factors: the type and gravity of the criminal offence, the age of the juvenile, the degree of psychological development, his character and aptitudes, the motives that induced him or her to commit the criminal offence, his education at that stage, the environment and the circumstances of his 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 juvenile upon the request of the juvenile state prosecutor or the court as provided for in the present Code. The social inquiry shall include information about the juvenile's age and psychological development, family background, the background and circumstances in which the juvenile is living, school career, educational experiences and any other relevant information.

3. Prior to the selection of any measure or punishment, the court shall request from the Probation Service the pre-punishment report and a recommendation regarding the selection of a measure or punishment.

#### **Article 14**

##### **Imposition of measures on a young adult for criminal offences committed as a young juvenile**

1. Court proceedings cannot be conducted against an adult who has reached the age of twenty-one (21) years for a criminal offence committed as a juvenile under the age of sixteen (16) years.

2. Court proceedings can be conducted against a young adult for a criminal offence committed as a juvenile under the age of sixteen (16) years only if the criminal offence is punishable by imprisonment of more than five (5) years.

3. In the court proceedings specified in paragraph 2 of this Article, the court may only impose an appropriate institutional educational measure. The general criteria set forth in Article 13 of the present Code shall be considered, as well as the amount of time that has elapsed since the commission of the criminal offence.

#### **Article 15**

##### **Imposition of measures and punishments on an adult for criminal offences committed as an adult juvenile**

1. In court proceedings conducted against an adult for a criminal offence committed as an adult juvenile, the court may impose a measure or punishment in accordance with Article 12 of the present Code. The general criteria set forth in Article 13 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.

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 (23) years at the time of the court proceedings under the conditions foreseen by this Code.

#### **Article 16**

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

1. In court proceedings conducted against an adult for a criminal offence committed as a young adult, the court may impose a measure or punishment in accordance with Article 12 of the present Code, 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 best interest.

2. The measure or punishment which is imposed may only last until the person has reached the age of twenty-three (23) years.

#### **Article 17**

##### **Effect of the educational measure punishment**

1. When the court imposes a sentence of juvenile imprisonment on a juvenile who has reached the age of sixteen (16) years during the execution of an educational measure, the educational measure shall cease when the juvenile begins to serve the sentence.

2. When the court imposes a sentence of juvenile imprisonment or imprisonment of at least one (1) year on an adult during the execution of an educational measure, the educational measure shall cease when the offender begins to serve the sentence.

3. When the court imposes a sentence of juvenile imprisonment or imprisonment of less than one (1) 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.

#### **Article 18**

##### **Records of measures and punishments**

1. The authority imposing measures or punishments shall keep a record of the measures and punishments imposed on a juvenile. The Probation Service must have a copy of this record.

2. Record on imposing of diversion measures and uninstitutional educational measures have no features of criminal record in the sense of the Criminal Code.

3. Data on the measures and punishments imposed on a juvenile shall be confidential. Only the competent judge and state prosecutor may obtain such data when it is necessary for conducting proceedings against the same individual while he is still a juvenile. Upon the request of the juvenile or his legal representative the court shall issue the record.

4. The records under paragraph 1 of this Article shall be expunged when the person has reached the age of twenty-one (21) years.

5. When a measure or punishment imposed on an adult for a criminal offence committed as a juvenile is being executed, the record of the measure or punishment shall be expunged immediately upon the termination of the measure or punishment.

6. With the sub-legal act issued by Kosovo Judicial Council, there shall be determined the content and the manner of maintaining the record from paragraph 1 of this Article.

## **CHAPTER IV DIVERSION MEASURES**

### **Article 19**

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

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

### **Article 20**

#### **Types of diversion measures**

1. The diversion measures that may be imposed on a juvenile offender are:

1.1. reconciliation between the juvenile and the injured party, including an apology by the juvenile to the injured party;

1.2. reconciliation between the juvenile and his family;

1.3. compensation for damage to the injured party, through mutual agreement between the injured party, the juvenile and his legal representative, in accordance with the juvenile's financial situation;

1.4. regular school attendance;

1.5. acceptance of employment or training for a profession appropriate to his abilities and skills;

1.6. performance of unpaid community service work, in accordance with the ability of the juvenile offender to perform such work. This measure may be imposed with the approval of the juvenile offender for a term ten (10) up to sixty (60) hours.

1.7. education in traffic regulations;

1.8. psychological counselling;

1.9. engagement in charity activities;

1.10. payment of a certain amount of money destined for charity purposes or the program for victim compensation in compliance with the financial situation of the juvenile;

1.11. engagement in sport and recreation activities;

1.12. counselling between families of juveniles;

1.13. to refrain from any contact with certain individuals that might have negative influence to the juvenile;

1.14. to refrain from frequenting certain places or locations likely to have a negative influence on the juvenile; and

1.15. to abstain from the use of drugs and alcohol;

1.16. police warning.

### **Article 21**

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

1. Diversion measures may be imposed by the prosecutor on a juvenile who has committed a criminal offence punishable by a fine or by imprisonment of three (3) years or less or for criminal offence carelessly committed punishable by imprisonment up to five (5) years, save those which bring death as a consequence.

2. Police warning measure from paragraph 1, sub-paragraph 1.16 of Article 20 of the present Code may be imposed to a juvenile as an offender for the first time for criminal offences punishable by fines or imprisonment up to three (3) years.

3. The police warning as a diversion measure shall be imposed by the police officer with the permission of the state prosecutor for juveniles. The police shall keep record of police warnings imposed, which shall not have the character of records as those of sentenced juvenile, and may not be used in any way that might harm the juvenile.

4. The conditions for the imposition of a diversion measure are:

4.1. acceptance of responsibility by the juvenile for the criminal offence;

4.2. expressed readiness by the juvenile to make peace with the injured party; and

4.3. consent by the juvenile, or by the parent, adoptive parent or guardian on behalf of the juvenile, to perform the diversion measure imposed.

5. The failure of the juvenile to perform the obligations of a diversion measure shall be reported promptly by the Probation Service to the competent authority which may decide to recommence the prosecution of the case.

## **CHAPTER V EDUCATIONAL MEASURES**

### **Article 22**

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

The purpose of an educational measure is to contribute to the rehabilitation and re-socialization and proper development of a juvenile offender, by offering protection, assistance and supervision, by providing education and vocational training and by developing his personal responsibility, and thereby to halt recidivist behaviour.

### **Article 23**

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

1. The types of educational measures that may be imposed on a juvenile offender are:

1.1. judicial admonition,

1.2. measures of intensive supervision; and

1.3. institutional measures

2. Judicial admonition shall be imposed on a juvenile 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 juvenile, intensive supervision in another family and intensive supervision by the Guardianship Authority. These measures are imposed on a juvenile whose interests do not require isolation from his previous environment and is served by a long-term measure which provides the juvenile with an opportunity for education, rehabilitation or treatment. The term of this measure may not be less than three (3) months or more than two (2) years.

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

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

### **Article 24**

#### **Judicial admonition**

1. The competent judge shall impose the measure of judicial admonition when such measure is deemed sufficient and in the interest of the juvenile in order to positively influence his behaviour.

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

### **Article 25**

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

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 juvenile, but has been negligent in such supervision and when such measure is in the best interest of the juvenile.

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 juvenile and to have 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.

#### **Article 26**

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

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 juvenile and when such measure is in the best interest of the juvenile.

2. The execution of this measure shall be terminated when the parent, adoptive parent or guardian of the juvenile 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.

#### **Article 27**

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

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 juvenile and when such measure is in the best interest of the juvenile.

2. In the execution of this measure, the juvenile 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:

3.1. overseeing the juvenile's education;

3.2. facilitating access to vocational training and employment;

3.3. ensuring that the juvenile is removed from any adverse influences;

3.4. facilitating access to necessary medical care;

3.5. providing possible solutions to any problems that might arise in the juvenile's life; and

3.6. such other duties as the juvenile judge determines would be in the best interest of the juvenile.

4. Guardianship authority shall be obliged to report to court, which has imposed additional supervision measure from the guardianship authority in regards with execution of court verdict at least each three (3) months.

### **Article 28**

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

1. When imposing one of the measures under Articles 25, 26 and 27 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 juvenile:

2.1. to apologize personally to the injured party;

2.2. to compensate for the damage to the injured party, in accordance with the juvenile's financial situation;

2.3. to attend school regularly;

2.4. to accept employment or to receive training for a profession appropriate to his abilities or skills;

2.5. to refrain from any form of contact with certain individuals likely to have a negative influence on the juvenile;

2.6. to accept psychological counselling;

2.7. to refrain from frequenting certain places or locations likely to have a negative influence on the juvenile; and

2.8. 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 juvenile.

4. If the juvenile 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 of this Article, the court shall inform the juvenile that their non-compliance may result in the imposition of a more severe educational measure.



## **Article 29**

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

1. The court shall impose the measure of committal to an educational-correctional institution when a juvenile who has committed a criminal offence punishable by imprisonment of more than three (3) years requires specialized education and when such measure is in the best interest of the juvenile.
2. Exceptionally from paragraph 1 of this Article, the court may impose the measure of committal to an educational-correctional institution when a juvenile who has committed a criminal offence punishable by imprisonment up to three (3) years, when other measures imposed on the juvenile failed to achieve the purpose.
3. When deciding on the imposition of this measure, the court shall consider the gravity and nature of the criminal offence and whether the juvenile has previously been sentenced to an educational measure or juvenile imprisonment.
4. The term of this measure may not be less than one (1) year or more than five (5) years.

## **Article 30**

### **Committal to a special health care facility**

The court may impose the measure of committal to a special care facility instead of the measure of committal to an educational-correctional institution upon the recommendation of a medical expert when a juvenile requires special care due to a mental disorder and when this is in the best interest of the juvenile. The court that has imposed the measure shall review the need for further stay in the special care facility every three (3) months.

## **CHAPTER VI**

### **FINE AND ORDER FOR COMMUNITY SERVICE WORK**

## **Article 31**

### **Fine**

1. The court may impose the punishment of a fine on a juvenile if the juvenile has the means to pay the fine. When imposing the punishment of a fine, the court shall consider the financial situation of the juvenile and, in particular, the amount of his personal income, other income, assets and obligations. The court shall not set the level of a fine above the means of the juvenile.
2. The punishment of a fine may not be less than twenty-five (25) Euro or more than five thousand (5.000) Euro.
3. The judgment shall determine the deadline for the payment of a fine, which may not be less than fifteen (15) days or more than three (3) months, but in justifiable circumstances the court may allow the fine to be paid in instalments over a period not exceeding two (2) years.
4. If the juvenile is unwilling or unable to pay the fine, the court may allow the fine to be paid in instalments over a period not exceeding two (2) years. Thereafter, if the juvenile 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 regular employment or school activities.

5. If the juvenile does not pay the fine punishment or is unwilling to replace it with an order for community work, as it is stipulated with the relevant provisions of the present Code, the court may replace the fine punishment with an uninstitutional educative measure.

### **Article 32**

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

1. The court may order punishment with community service work. When imposing an order for community service work, the court shall order the juvenile to perform unpaid community service work for a specified term of thirty (30) to one hundred and twenty (120) hours.

2. With the consent of the juvenile, the court may replace the imposed institutional educative measure up to three (3) years, imprisonment of the juvenile up to two (2) years or a fine for community service work.

3. 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.

4. The Probation service shall take care that the execution of the community service work will have no impact on termination of education or any regular employment of the juvenile.

5. The community service work, imposed by the court, shall be implemented within one (1) year.

6. If, upon the expiry of the specified period, the juvenile 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.

7. In such cases, the court shall not be conditioned by the minimal duration of time of one (1) year for the institutional education measure, and neither by the duration of time of six (6) months sentence with imprisonment, determined by the present Code.

## **CHAPTER VII**

### **JUVENILE IMPRISONMENT**

#### **Article 33**

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

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

**Article 34****Imposition of juvenile imprisonment**

The court may impose the punishment of juvenile imprisonment on a juvenile offender who has reached the age of sixteen (16) years and has committed a criminal offence punishable by imprisonment of more than five (5) 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 criminal responsibility.

**Article 35****Term of juvenile imprisonment**

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 imposed for less than six (6) months and not more than five (5) years and shall be imposed in full years and months. Exceptionally, the maximum term of juvenile imprisonment shall be ten (10) years for serious criminal offences punishable by life imprisonment, or if the juvenile has committed at least two (2) concurrent criminal offences each punishable by imprisonment of more than ten (10) years.
3. When deciding on the term of juvenile imprisonment, the court shall consider all the mitigating and aggravating circumstances set forth in Article 13 of the present Code and Articles 73 and 74 of the Criminal Code of the Republic of Kosovo.

**Article 36****Conditional release from juvenile imprisonment**

1. A person sentenced to juvenile imprisonment may be conditionally released if he has served at least one-third (1/3) 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 or by the Guardianship Authority to last until the end of the imposed sentence.
3. The court may revoke the conditional release if during the period of conditional release the juvenile commits a criminal offence for which a term of imprisonment or juvenile imprisonment of at least six (6) months is imposed.

**Article 37****Imposition of educational measures and juvenile imprisonment for concurrent criminal offences**

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 competent judge finds that it should be imposed.
2. Paragraph 1 of this Article shall also apply when the juvenile has committed another criminal offence before or after the imposition of the educational measure or imprisonment.

**CHAPTER VIII**  
**MEASURES OF MANDATORY TREATMENT AND ACCESSORY PUNISHMENTS**

**Article 38**

**Purpose and Imposition of Measures of Mandatory Treatment**

1. The purpose of a measure of mandatory treatment is to contribute to the rehabilitation of the juvenile and to prevent the risk of recidivism. The mandatory treatment shall be imposed in accordance with the provisions of Criminal Code of the Republic of Kosovo.
2. The court may impose a measure of mandatory psychiatric treatment on a juvenile in accordance with the Chapter V of Criminal Code of the Republic of Kosovo.
3. The court may impose a measure of mandatory rehabilitation treatment on a juvenile in accordance with Chapter V of the Criminal Code of the Republic of Kosovo.
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 judicial admonition.

**Article 39**

**Imposition of Accessory Punishments**

1. When the court finds it justifiable it may impose accessory punishment in accordance with the Article 64 and 69 of Criminal Code of the Republic of Kosovo.
2. Accessory punishments may, pursuant to Article 62 of Criminal Code of the Republic of Kosovo, be imposed to young adult when judged based on Article 16 of the present Code.

**THIRD PART**

**CHAPTER I**  
**PROCEEDINGS**

**Article 40**

**Urgent Actions and Prohibition of Adjudication in Absentia**

1. When a juvenile is in detention, arrest or remand, the authorities that carry out the proceedings shall be obliged to act with urgency.
2. A juvenile shall not be adjudicated in absentia.
3. When undertaking an action at which a juvenile is present, and especially at his examination, the authorities participating in the proceedings are obliged to act carefully, taking into account

the psychological development, sensitivity and the personal characteristics and special needs of the juvenile, so that the conduct of the proceedings does not have an adverse effect on his development.

4. The juvenile must be informed of his rights as follows:

- 4.1. the right to inform the bearer of the parental responsibility;
- 4.2. the right to be assisted by a defense counsel;
- 4.3. the right to privacy protection;
- 4.4. the right to be accompanied by the bearer of the parental responsibility during the stages of proceedings, alongside the court ones;
- 4.5. the right to legal aid;
- 4.6. the right to individual assessment;
- 4.7. The right to medical examination;
- 4.8. the right restraining of the deprivation of liberty and the right to alternative measures, including the right to periodic review of detention;
- 4.9. the right to be accompanied by the bearer of parental responsibility during court proceedings;
- 4.10. the right personally present himself in the trial;
- 4.11. the right to effective means; and
- 4.12. the right to specific treatment during deprivation of liberty.

5. Information from paragraph 4 of this Article shall be provided in written or verbal or both forms, in a simple and understandable language and with the understanding that the information provided is recorded, using a recording procedure.

#### **Article 41** **Defending the Juvenile**

1. The juvenile must have a defence counsel when examined for the first time, as well as during the entire proceedings.
2. Only a defence counsel registered at the Kosovo Bar Association can represent a juvenile.
3. In a case when the juvenile or his legal representative does not engage a defence counsel, the court or juvenile state prosecutor, or other authority conducting the proceedings shall appoint ex officio a defence counsel at public expense, based on the rule of more specific defence

counsels specialized in the field of protection of juveniles' rights according to the ordering from the register of Kosovo Bar Association.

4. The defence counsel appointed ex officio in accordance with paragraph 3 of this Article shall remain until the completion of the proceedings, unless objective circumstances arise that are beyond the control of the juvenile defence counsel that would require change of the legal representation of the juvenile, or until the juvenile or his legal representative does not engage a defence counsel himself.

5. Defense counsels should consider the juveniles as clients with full rights, that means that they are obliged to take into consideration and present their thoughts, as well as provide them with all necessary information and explanations related to the possible consequences of their views and thoughts.

#### **Article 42**

##### **Accompanying the Juvenile**

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

2. When the parents, adoptive parents or guardian of the juvenile do not exercise their parental duties, the court may nominate one (1) temporary guardian for the juvenile.

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 43**

##### **Obligation to Testify**

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

#### **Article 44**

##### **Severing and Joining of the Procedure**

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

2. Exceptionally, the proceedings against the juvenile can be joined to the proceedings against an adult and can be conducted in accordance with the general provisions of the Criminal Procedure Code of Kosovo, only if joining of the proceedings is essential for a comprehensive clarification of the case. A juvenile collegiate during the stages of main trial or the juvenile judicial panel in the main trial shall issue a ruling on this based on the reasoned motion of the juvenile state prosecutor or the defence counsel. Upon the receipt of the decision, the unsatisfied party shall be entitled to file a complaint with the court of second instance within a timeframe of three (3) days.

3. When joint proceedings are conducted against a juvenile and an adult perpetrator, the provisions of Article 40- 43, Article 45, 46, 47 paragraphs 1 and 3, Articles 60 - 63 and Article 66 of the present Code shall always be applied in regard to the juvenile when questions relating to the juvenile are being clarified in a the proceeding and Articles 71- 73 of the present Code shall always be applied in regard to the juvenile, 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**

##### **Notification on Initiation and Course of Proceedings**

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

2. The juvenile state prosecutor shall notify the competent Guardianship Authority and Probation Service whenever proceedings on a juvenile are initiated.

#### **Article 46**

##### **Invitation**

1. The juvenile shall be summoned in person and through his parent, adoptive parent or guardian to participate in the proceedings.

2. The service of decisions and other written documents on the juvenile shall be carried out in accordance with the provisions of the Criminal Procedure Code on announcing of documents by displaying on the bulletin board of the court.

#### **Article 47**

##### **Confidentiality**

1. All proceedings involving juveniles shall be confidential. No recording of the proceedings, including audio and video recording, may be made public without the authorization of the court.

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

3. When an authorized part of recorded proceedings or of the decision is made public, personal data that can be used to identify the juvenile shall not be revealed.

4. The provisions of this Article shall apply to proceedings involving adults tried for criminal offences committed as juveniles.

## **CHAPTER II JUVENILE PANEL**

### **Article 48 Composition**

1. The juvenile judge in the first instance shall adjudicate for criminal offences for which the main foreseen punishment is a fine or imprisonment up to ten (10) years.
2. A juvenile panel in the court of first instance composed of three (3) judges, of which the presiding judge of juvenile panel is a juvenile judge, shall adjudicate criminal offences for which the foreseen punishment is imprisonment over ten (10) years or more serious punishment.
3. In the second instance a juvenile collegiate composed of three judges, of which the referring judge is a juvenile judge, shall adjudicate. In the third instance and based on extraordinary legal remedies and in other cases foreseen by this Code, a juvenile collegiate composed three judges of which the president of the collegiate is a juvenile judge shall adjudicate.

### **Article 49 Suspension of Prosecution**

The juvenile state prosecutor may suspend the prosecution of a criminal offence and impose a diversion measure if the conditions under Article 21 of this Code are fulfilled. Before deciding on a diversion measure, the prosecutor shall summon the juvenile, his parent, adoptive parents or guardian and defence counsel.

### **Article 50 Jurisdiction of the Court of Second Instance**

1. The court of second instance shall have jurisdiction:
  - 1.1. to decide on an appeal against a decision of the juvenile judge or juvenile panel rendered at first instance;
  - 1.2. to decide on an appeal against a decision of the juvenile state prosecutor; and
  - 1.3. in other cases, to act as provided for by Law.

### **Article 51 Territorial Jurisdiction**

1. As a rule, the court within whose territory a juvenile has a permanent residence shall have territorial jurisdiction for proceedings on the juvenile.
2. If a juvenile does not have a permanent residence or if it is unknown, the court within whose territory the juvenile has current residence shall have territorial jurisdiction.
3. Proceedings may be conducted before the court within whose territory a juvenile has current



residence, even though he 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.

4. For criminal proceedings foreseen by Article 108 of the present Code, according to the rule, the court in which territory the injured party has his permanent residence shall have the territorial competence for the criminal proceedings committed on the child, whereas the proceedings may be carried out in the court in which territory the criminal offence was conducted, when the proceedings with that court is easier implemented.

### **CHAPTER III PREPARATORY PROCEEDINGS**

#### **Article 52 Initiation of Preparatory Proceedings**

1. The juvenile state prosecutor may initiate preparatory proceedings on a juvenile determined based on a criminal report by police, criminal charge by other persons or other sources if there is reasonable suspicion that the juvenile committed the criminal offence.

2. For criminal offences punishable by imprisonment of less than three (3) years or a fine, the juvenile state prosecutor may decide not to initiate preparatory proceedings, even though there is a reasonable suspicion that the juvenile committed the criminal offence, if the juvenile state prosecutor considers that it would not be appropriate to conduct the proceedings on the juvenile 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 juvenile's past history and personal characteristics.

3. When a punishment or measure is being executed against a juvenile, the juvenile state prosecutor may decide not to initiate preparatory proceedings for another criminal offence of the juvenile, 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.

4. If the juvenile state prosecutor decides not to initiate preparatory proceedings, he shall notify the Guardianship Authority, the police and the injured party when the case is initiated by the police.

5. In order to ascertain the circumstances under paragraph 1 of this Article, the state prosecutor may request that the Probation Service conduct the social inquiry provided for in Article 13 of the present Code. If it is necessary, the juvenile state prosecutor may summon the parent, adoptive parent or guardian of the juvenile, as well as other persons and institutions and the injured party.

6. If, for any reason, it is not possible to have the social inquiry under paragraph 5 of this Article completed before taking a decision on the appropriateness of the initiation of preparatory proceedings, the juvenile state prosecutor shall secure the necessary information under Article 13 of the present Code and may consult with the Probation Service about his decision.

**Article 53****Ruling for Initiation of Preparatory Proceedings**

1. Preparatory proceedings shall be initiated by a ruling of the juvenile state prosecutor. The ruling shall specify the juvenile 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 juvenile. A stamped copy of the ruling on the preparatory proceedings shall be sent without delay to the juvenile judge.

2. Provisions of the Criminal Procedure Code of Kosovo shall apply mutatis mutandis to the conduct of preparatory proceedings.

**Article 54****Appointing a mental health expert and presentence report**

1. The court shall appoint an appropriate mental health expert when it is necessary to establish the state of the juvenile's mental health either at the time of the commission of the criminal offence or the competency of the juvenile to stand trial or both. The court shall make such appointment ex officio or on the request of the juvenile state 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 court shall request the Probation Service to prepare a presentence report.

**Article 55****Guaranteeing the proceeding rights**

1. During the course of preparatory proceedings, the juvenile judge shall guarantee the rights of the juvenile and supervise the preparatory proceedings.

2. The defence counsel and the parent, adoptive parent or guardian of the juvenile 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.

3. The examination of the juvenile, when necessary, shall be undertaken with the assistance of a pedagogue, psychologist and defectologist, or any other expert.

**Article 56****Termination of preparatory proceedings**

1. The juvenile state prosecutor shall terminate the preparatory proceedings if at any time it is evident from the evidence collected that:

1.1. there is no reasonable suspicion that the juvenile has committed the indicated criminal offence;

- 1.2. the period of statutory limitation for criminal prosecution has elapsed;
- 1.3. the criminal offence is covered by an amnesty;
- 1.4. the conditions set forth in Article 52, paragraph 2 of the present Code are present; or
- 1.5. there are other circumstances that preclude prosecution.

2. The juvenile state prosecutor shall immediately notify the court, Probation Service, Guardianship Authority, the injured party and the police, if initiated by the police, of the termination of the preparatory proceedings. The juvenile state prosecutor shall also immediately notify the juvenile of the termination of the preparatory proceedings unless no action has been undertaken in the preparatory proceedings.

#### **Article 57**

##### **Extension of the proceedings**

1. If the preparatory proceedings has started, it must be completed within six (6) months. If there is no motion raised for imposing of measure or punishment, within this period, then the criminal proceedings shall be automatically terminated.
2. With the request of the Juvenile State Prosecutor, the juvenile judge or juvenile judicial panel may allow extension of the preparatory proceedings for a period of six (6) months under paragraph 1 of this Article in cases when the Juvenile State Prosecutor proves that the preparatory proceedings is continuously and actively carried out and that any delay is beyond the control of the Juvenile State Prosecutor. This, among others, may include also the complicated preparatory proceedings, thus when there are more than one defendant or injured party, and when there is request filed for international legal aid.
3. The request of the Prosecutor under paragraph 2 of this Article shall be submitted prior to the expiration of the deadline for preparatory proceedings specified in paragraph 1 of this Article.

#### **Article 58**

##### **Notification on Completion of the Proceedings**

Before completing the preparatory proceedings, the juvenile state prosecutor shall notify the defence counsel of his intention to complete the proceedings within fifteen (15) days. During this period, the defence counsel may submit a request to consider new facts or evidence in accordance with Article 55, paragraph 2 of this Code. If the juvenile state 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 juvenile state prosecutor may not accept a request to consider new facts or evidence after the completion of the preparatory proceedings.

#### **Article 59**

##### **Motion for Imposition of Measure or Punishment**

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

2. The juvenile state prosecutor's motion must contain the following: the personal data of the juvenile, a description of the criminal offence, the legal name of the criminal offence with an indication of the provisions of the Criminal Code of the Republic of Kosovo, the evidence indicating that the juvenile 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 juvenile, including the reason for not imposing the diversion measure.

## **CHAPTER IV**

### **PROVISIONAL ARREST, POLICE DETENTION AND DETENTION ON REMAND**

#### **Article 60**

##### **General Rules**

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

2. The juvenile shall be entitled to general non-invasive medical examination, upon the request of the competent authority, child, parent, adoptive parent, guardian and defence counsel during detention as well as before starting the submission of motion for imposition of measure of detention on remand, to ensure that his mental and physical health allows imposition of detention on remand and to find any eventual mistreatment, which must be performed by the General Practitioner or any other qualified professional.

3. The police may arrest and detain a juvenile in accordance with Chapter X of the Criminal Procedural Code of Kosovo.

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

#### **Article 61**

##### **Imposition and Duration of Detention on Remand**

1. A juvenile judge may order detention on remand against a juvenile if the grounds defined in provisions of the Criminal Procedure Code are present and if alternatives to detention on remand would be insufficient to ensure the presence of the juvenile, to prevent re-offending and to ensure the successful conduct of the proceedings. The juvenile judge shall consider whether the measures listed in Article 7 of the present Code or Article 173 of the Criminal Procedure Code may be ordered as alternatives to detention on remand. The ruling on detention on remand of a juvenile shall provide a reasoned explanation for the insufficiency of alternatives to detention on remand.

2. A juvenile may be held in detention on remand on the ruling of juvenile judge for a maximum of thirty (30) days from the day he was arrested. In the preparatory proceedings the detention on remand of a juvenile may only be extended for an additional period of up to sixty (60) days, whereas after submission of a relevant motion by the prosecutor the detention on remand of a juvenile may be extended for an additional period up to ninety (90) days.

3. The juvenile judge shall review the ruling on detention on remand within thirty (30) days from the issuance of the ruling. Such review shall be conducted during e hearing in the presence of

the juvenile, his defence counsel and the prosecutor.

#### **Article 62**

##### **Separation from Adult Detainees and Caring about the Juvenile**

1. Juveniles held in detention on remand in a detention facility shall be separated from adult detainees.
2. A juvenile held in detention on remand may be held in an educational-correctional institution, if the court considers this to be in the best interest of the juvenile.
3. While in detention on remand, the juvenile shall receive social, educational, vocational, psychological, medical and physical assistance, in view of his age, gender and personality.

#### **Article 63**

##### **Limitation of Detention on Remand and the Counting of Time Spent in Detention on Remand and any Other Arrest**

1. Provisions of the Criminal Procedure Code on detention on remand shall apply *mutatis mutandis* to the detention on remand of juveniles, unless the provisions of the present Code specify otherwise.
2. Notwithstanding paragraph 1 of this Article, a juvenile shall not be held in detention on remand more than one hundred and eighty (180) days from the deprivation of liberty.
3. The time spent in detention on remand, and any other deprivation of liberty shall be counted in the duration of the measure imposed for committal of the juvenile to educational-correctional institution, imprisonment of the juvenile and fine.
4. The juvenile judge shall have the same authority with respect to a juvenile in detention on remand same as the pre-trial judge under the Criminal Procedure Code with respect to adults in detention on remand.

### **CHAPTER V MAIN TRIAL**

#### **Article 64**

##### **Ruling for Dismissal of the Motion or Transfer of the Matter**

1. When the juvenile judge or the juvenile panel receives a motion of the juvenile state prosecutor, he may issue a ruling to dismiss the motion or to transfer the matter to another court, if the conditions set forth in provisions of the Criminal Procedure Code exist, if the competent judge finds as reasonable the imposition of a measure or punishment the proceedings shall cease.
2. If no ruling is issued to dismiss the motion or to transfer the matter to another court, the main trial shall be scheduled within eight (8) days of the receipt of the motion.

### **Article 65**

#### **Persons Present in the Main Trial**

1. The juvenile, the defence counsel and the juvenile state prosecutor shall be present at the main trial.
2. In addition to the persons referred to in provisions of the 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 Criminal Procedure Code regarding the amendment and extension of the charge shall also apply in proceedings against a young juvenile.

### **Article 66**

#### **Exclusion of Public**

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

### **Article 67**

#### **Adjournment or Recession of the Court Session**

The court session 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 court session and shall state the reasons thereof.

### **Article 68**

#### **Rendering of the Decision**

1. The juvenile judge or of the juvenile panel is not bound by the motion of the juvenile state prosecutor in rendering its decision on the type of measure or punishment to be imposed.
2. The juvenile judge or the juvenile panel shall terminate the proceedings at the main trial by a ruling, in cases when for the adult a decision for release or rejection would have been taken, as well as when it is found that it shall not be opportunitistic respectively the best interest of the

juvenile to impose a measure or punishment.

3. The juvenile judge or the juvenile panel shall impose an educational measure on the juvenile 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 the Part Two, Chapter VIII of the present Code and the juvenile shall not be pronounced guilty of the criminal offence described in the motion of the 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 judge or the juvenile panel shall impose a punishment on a juvenile by a judgment. The judgment shall be rendered as provided under provisions of the Criminal Procedure Code. The judgment shall also include an order for any measure or punishment in Part Two, Chapter VIII of the present Code.

5. The juvenile judge or the juvenile panel shall draw up the ruling or judgment in writing within eight (8) days of its announcement, exceptionally in complicated cases with the permission of president of court the duration of time can be extended but not more than fifteen (15) days.

6. If the main trial ends with admission of guilt approved by the court, the court shall be obliged to administer evidence on the age and personality of the juvenile pursuant to Article 13 of the present Code.

7. The juvenile judge or the juvenile panel may order the juvenile to pay the costs of proceedings and to satisfy property claims only if it has imposed a punishment on the juvenile. If educational measures have been imposed upon the juvenile, the costs of the proceedings shall be paid from Kosovo budget and the injured party shall be referred to civil litigation to realize property claims.

8. If the juvenile has his own financial income or property, the competent judge may order the juvenile to pay the costs of proceedings and to satisfy property claims even where educational measures have been imposed.

9. Part Two, Chapter XIX and XX of the Criminal Procedure Code of Kosovo shall apply *mutatis mutandis* to the main trial of juveniles and the ruling and judgment issued in respect of juveniles.

## **CHAPTER VI LEGAL REMEDIES**

### **Article 69 Appeal**

1. The persons referred to in provisions of the 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 Part Two, Chapter VIII of the present Code. This appeal may be filed within eight (8) days from the day of the receipt of the ruling or judgment.

2. The juvenile defence counsel, the juvenile state 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 juvenile, even against his will.

3. A juvenile cannot waive his right of appeal.

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

#### **Article 70**

##### **Decision on the Appeal**

1. The court of second instance may modify the appealed decision by imposing a more severe measure or punishment only if so requested in the appeal by the juvenile state prosecutor or the injured party in accordance with the relevant provisions of Criminal Procedure Code.

2. If the 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 71**

##### **Request for the Protection of Legality**

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

#### **Article 72**

##### **The Request for Reopening of Criminal Proceedings**

The provisions on the reopening of criminal proceedings terminated by a final ruling or a final judgment as provided in provisions of the Criminal Procedure Code shall apply mutatis mutandis to the reopening of proceedings against a juvenile 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.

#### **Article 73**

##### **Request for Extraordinary Mitigation of Punishment**

The request for extraordinary mitigation of punishment shall be submitted in accordance with the provisions of the Criminal Procedure Code.



**FOURTH PART**  
**EXECUTION OF MEASURES AND PUNISHMENTS**

**CHAPTER I**  
**EXECUTION OF DIVERSION MEASURES**

**Article 74**  
**Execution and Supervision**

1. When the juvenile state prosecutor 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 juvenile state prosecutor shall supervise the execution of the diversion measure.
3. If the juvenile 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 juvenile state prosecutor that imposed the diversion measure.

**CHAPTER II**  
**EXECUTION OF EDUCATIONAL MEASURES**

**Article 75**  
**General Principles on the Execution of Uninstitutional Educational Measures**

1. The court which imposed the educational measure is the competent court to supervise the execution of the educational measure and issue orders in relation to the execution of the educational measure.
2. Probation Service within the territory of juvenile's permanent or temporary residing is responsible for execution of the educational measure, notwithstanding the educational measure intensive supervision by the Guardianship Authority.
3. An educational measure shall be executed with respect for the personality and dignity of the juveniles, encouraging their physical, moral and intellectual development and protecting their physical and mental health.
4. An educational measure shall be executed based on an individual program adapted to the personality of the juvenile as far as possible and designed in accordance with modern achievements of knowledge and practice.
5. The individual program is designed on the basis of a comprehensive analysis of the special characteristics of the juvenile, 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 juvenile and the circumstances of his family life.
6. The individual program shall contain motivating means that are adapted to the personal characteristics of the juvenile, enrolment in education and vocational training, free time activities, activity with the parents, adoptive parents, the guardian or other family members of the juvenile

and other means of exercising influence on the juvenile.

#### **Article 76**

##### **Expenses**

1. The expenses of executing educational measures shall be paid from Kosovo budget.
2. The parents or persons who are obliged by law to care for the juvenile 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 juvenile 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 juvenile, the court shall first render a decision imposing the educational measure and then continue the procedure for determining the level of contribution.
4. The court may change the decision on the level of the contribution if circumstances subsequently change.

#### **Article 77**

##### **Final Decision and Maintaining of Records**

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 maintain records on every juvenile on whom it has imposed an educational measure.

#### **Article 78**

##### **Protection Appropriate Measures**

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

#### **Article 79**

##### **Execution of a Measure of Intensive Supervision by a Parent, Adoptive Parent or Guardian**

1. 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.
2. 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.

3. The probation Service shall inform the court of the failure of the parent, adoptive parent or guardian to comply with orders and instructions.

4. The parent, adoptive parent or guardian of a juvenile and the Probation Service shall inform the court on the progress of the execution of the educational measure according to the terms ordered by the court.

5. The Probation Service shall inform the court without delay of the failure of the juvenile to comply with a special obligation imposed pursuant to Article 33 of the present Code and of any obstacle to the execution of the educational measure.

#### **Article 80**

##### **Execution of a Measure of Intensive Supervision in another Family**

1. The court shall designate the family in which a juvenile subject to the measure of intensive supervision in another family is to be placed, upon the motion of the Probation Service.

2. Before submitting the motion, the Probation Service shall examine the personality and special needs of the juvenile and the social and psychological structure of the family in which he is to be placed.

3. Under the same conditions, priority shall be granted to a family to which the juvenile is related or is emotionally attached.

4. The Probation Service and the family in which the juvenile will be placed shall conclude a written agreement that regulates their mutual rights and obligations.

5. The family in which the juvenile is to be placed shall permit the Probation Service to verify the execution of the educational measure.

6. During the execution of the educational measure of intensive supervision in another family, the juvenile shall maintain permanent connections with his family, unless the court orders otherwise based on the motion of the Probation Service.

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

8. 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.

#### **Article 81**

##### **Execution of a Measure of Intensive Supervision by the Guardianship Authority**

1. The competent Guardianship Authority is authorized to execute the educational measure of intensive supervision.

2. The Guardianship Authority shall, immediately upon receiving the ruling on imposing the

educational measure, designate the official person of the Guardianship Authority responsible for execution of the measure and shall immediately notify the court.

3. If the Guardianship Authority within a period of at least every three (3) months fails to report on application of the intensive supervision measure by the Guardianship Authority, the juvenile judge shall notify the respective monitoring and inspection unit within the responsible Ministry of Labour and Social Welfare. The juvenile judge must be informed of the measures undertaken by the respective monitoring and inspection unit.

4. The court, juvenile state prosecutor, Probation Service, schools and other institutions shall assist and cooperate with the Guardianship Authority in the execution of this educational measure.

5. The parent, adoptive parent or the guardian of the juvenile shall inform the Guardianship Authority of any obstacle to the execution of the educational measure.

6. The Guardianship Authority shall inform the court without delay of the failure of the juvenile to comply with a special obligation imposed pursuant to Article 28 of the present Code and of any obstacle to the execution of the educational measure.

7. 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.

## **Article 82**

### **General Provisions on Institutional Educational Measures**

1. A juvenile 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.

2. On the request of the juvenile or his 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.

3. The court shall decide on the stay of the execution.

4. 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 (3) days from receipt of the ruling.

5. 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.

6. 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 83****Suspension of Execution of Institutional Educational Measure**

1. On the request of a juvenile or his 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 (3) months. Exceptionally, for the purpose of health treatment the suspension may last until the completion of the treatment. The period of suspension shall not be counted in the execution of the measure.
2. The 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 (3) days from receipt of the ruling.
4. A court shall suspend execution of the institutional educational measure also when the juvenile 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.
5. In the case foreseen in paragraph 1 of this Article, 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.
6. 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.

**Article 84****Execution of the Measure of Committal to an Educational-correctional Institution**

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-opened and opened type.
2. Females who are subject to this educational 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 juveniles who reach the age of eighteen (18) years in the educational-correctional institution, shall be accommodated in a special section of the educational-correctional institution.
4. The director of the educational-correctional institution after receiving court's ruling on imposition of educational-correctional measure shall decide on committal of the juvenile to a semi-opened or opened type of regime.
5. The program, the rights, obligations and other benefits for juveniles in the Educational Correctional Centre shall be regulated with a special sub-legal act issued by the Ministry of Justice.

6. The court shall order in writing the juvenile to report to the educational-correctional institution on a specific day for the execution of the educational measure.
7. The period of time between the receipt of the order and the day of reporting shall be no less than eight (8) days and no more than fifteen (15) days.
8. The court shall inform the educational-correctional institution of the date on which the juvenile shall report and shall serve the final decision along with birth certificate, school certificate or transfer document, medical examination report, previous criminal records, proceedings applied, social inquiry or pre-sentence report of the Probation Service.
9. The authorized institution – which receives the ruling on execution, shall begin execution of the punishment within three (3) days after the receipt of the ruling.
10. If a juvenile who has been properly summoned does not report at the educational-correctional institution, the court shall order that he be transported to the educational-correctional institution. If the juvenile hides or is in flight, the court shall order the issuance of a wanted notice.
11. The method of transporting the juvenile to the educational institution shall not violate his dignity.

#### **Article 85**

##### **Admission to the Institution**

1. When the juvenile is admitted to an educational-correctional institution, his identity and the grounds, type of offence and authority for the educational measure shall first be established and then he shall undergo a medical examination, which shall be carried out by the General Practitioner or any other qualified professional within twenty-four (24) hours of arrival. The name of the juvenile, the grounds and authority for the educational-correctional measure and the date and time of his arrival at the correctional facility shall be recorded in a register.
2. Within a period of thirty (30) days after admission of the juvenile to the institution, the initial assessment shall be carried out in relation to his physical and mental health, education needs, vocational training and other similar needs, so as to prepare the individual programme. The individual programme shall be prepared by a multi-disciplinary team of educational-correctional institution, as necessary, with the engagement of professionals and services outside the institution.
3. Juveniles 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.
4. An educational group shall have at most ten (10) juveniles and one (1) special educator.

#### **Article 86**

##### **Daily Exercise and Staying Outside Closed Premises**

1. A juvenile has the right to exercise sufficiently in order to remain healthy and to spend at least three (3) hours daily outside closed premises during free time.

2. A juvenile shall have a secured environment for playing sports, exercising and other physical activities.

3. To exercise continuous disciplinary surveillance, the juveniles shall be prohibited to leave the territory of the educational-correctional institution, unless otherwise regulated by internal rules of the institution.

### **Article 87**

#### **Education**

Any juvenile of mandatory education age shall be entitled to appropriate education for his needs and skills and for his or her preparation to return to the society. Whenever possible, such education shall be provided outside detention facilities, at municipality schools and, in any case, with qualified teachers through integrated programmes in the education system so after release, the juveniles would be able to continue their education without obstacles. Special attention shall be paid to education of juveniles of foreign origin or with special cultural and ethnic needs. The juveniles that are illiterate or that have learning difficulties shall be entitled to special education.

### **Article 88**

#### **Visits**

1. A juvenile shall have the right to receive a visit at least once a week for a minimum of one (1) hour by his 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 juvenile shall have the right to receive a visit at least once 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 sub-legal act issued by the Ministry of Justice.

### **Article 89**

#### **Leave**

1. A juvenile has the right to daily and weekly rest in accordance with the general provisions of Law on Execution of Penal Sanctions.

2. A juvenile has the right to vacation as specified in paragraph 1 of this Article, after spending one third (1/3) of the institutional measure.

3. The juvenile has the right to an annual leave of thirty (30) days, which, upon the permit of the director of the institution, may be used even outside the premises of the institution.

4. The director of the educational-correctional institution may grant a juvenile additional leave from the educational-correctional institution on educational, occupational, family and other social grounds for a maximum of fifteen (15) days each year.

## **Article 90**

### **Disciplinary Procedures**

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 juvenile subject to a measure of committal to an educational-correctional institution, unless this Code specifies otherwise.

2. A juvenile may not be subject to solitary confinement as a disciplinary punishment.

3. A juvenile may be accommodated in a special unit of the educational-correctional institution as a disciplinary punishment under the following conditions:

3.1. the period of accommodation in a special unit may not exceed fifteen (15) days;

3.2. the juvenile shall not be accommodated alone in the special unit, save the cases of extreme violence or dangerous behaviour that impact performing of the juvenile's education programme. During this period, which may not be longer than forty-eight (48) hours, the juvenile shall be supervised by the psychologist and as required assistance and necessary advice shall be provided;

3.3. the juvenile shall be entitled to exercise his right to spend at least three (3) hours daily outside closed premises during free time in accordance with Article 86 of the present Code and to receive visits according to Article 88 of the present Code.

3.4. the juvenile shall have access to textbooks and other books and literature in the language he understands, and which shall not have harmful impact to his education; and

3.5. the juvenile shall be visited by a medical officer and educator once a day and by the director of the educational-correctional institution twice a week.

3.6. the juvenile may be placed in a separate ward if there is a direct danger of physical injury of himself or violence against other persons and the verbal comfort was not sufficient;

3.7. in regards to placing him in the separate ward, the following information shall be registered: the reason for placement on the separate ward; time of the beginning and end of the placement in separate ward; name of the employee in the institution under whose surveillance the juvenile stays in the separate ward; notification of the doctor on the health situation of the juvenile.

4. The Director of the institution or person authorized by the Director shall notify the parent, adoptive parent or guardian in regards to the placement of the juvenile in a separate ward immediately after issuance of the relevant decision.

5. All items that may be used by the juvenile to endanger his life and health shall be confiscated from the juvenile who is placed in a separate ward.

6. The juvenile that is placed in a separate ward shall be under continuous surveillance of an



employee of the institution.

7. The juvenile that is placed in a separate ward shall be entitled to meet with his parent, adoptive parent or guardian;

8. After completion of the staying of juvenile in a separate ward, the psychologist of the institution, director of the institution or the person authorized by the director shall talk with the juvenile to identify the reasons for the juvenile's conduct which resulted with his placement in a separate ward and the results of the talks shall be taken into account during the process of education of the juvenile in the future.

### **Article 91**

#### **Execution of Measure of Committal to a Special Health Care Facility**

1. A juvenile sentenced to the educational measure of committal to a special health care facility due to mental disorder shall be sent to an appropriate special health care facility.

2. By the request of the Probation Service, the Police will escort the juvenile to the institution of special health care facility.

3. If execution of the educational measure of committal to a special health care facility cannot begin or continue because the juvenile refuses to comply with the educational measure or escapes, the Probation Service shall immediately inform the court and the competent police station, which shall transport the juvenile to the institution.

4. The method of transporting the juvenile to the special health care facility shall not violate his dignity. A medical officer shall accompany the juvenile when he is being transported to the special health care facility.

5. Special health care facility shall inform the Probation Service and the court on the progress of the execution of the educational measure.

6. The facility shall specially inform the court of the medical condition of the juvenile when he reaches the age of eighteen (18) years.

### **Article 92**

#### **Review, Substitution and Termination of Institutional Educational Measures**

1. Every six (6) months, the director of the institution or facility where an institutional educational measure is executed shall submit to the court and the Probation Service a report on the behaviour of the juvenile 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 in compliance with the individual plan.

2. Every six (6) months, the juvenile judge shall visit the juveniles accommodated in an institution or facility and, through direct contact with the juveniles and the officers directly involved in executing institutional educational measures and reviewing the records of the institution or facility, establish whether the juveniles 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 Inspectorate for Supervision of Correction Institutions, Director of the educational-correctional institution as well as the General Director of Kosovo Correctional Service about any deficiencies or other observations when visiting the educational-correctional facility where the measure against the juvenile is being executed. The juvenile judge shall be informed of actions undertaken to correct illegalities and irregularities.

### **Article 93**

#### **Review of Institutional Educational Measure**

1. The court that has imposed an educational measure shall review the execution of an educational measure every six (6) months.

2. The juvenile, his 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 court shall issue a decision on the request referred to in paragraph 2 of this Article within eight (8) days of the receipt of the request. An appeal against the decision may be filed with the court of second instance within three (3) days from receipt of the decision.

4. During the review, the 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 juvenile, his parent, adoptive parent or guardian, the defence counsel, 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 this Article, the court may substitute an education measure with a more severe educational measure if the juvenile has failed to comply with a special obligation imposed pursuant to Article 28 of the present Code.

### **Article 94**

#### **Termination and Substitution of the Institutional Educational Measure**

1. If, after a final 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 competent judge 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 (1) 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. A review of an educational measure pursuant to this Article shall be conducted in accordance with Article 93 of this Code.

**Article 95**  
**Complaints and Petitions**

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 juveniles subject to the educational-correctional or committal to a special health care facility.

**CHAPTER III**  
**EXECUTION OF SENTENCES**

**Article 96**  
**Execution of Fines**

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 juveniles.
2. A fine imposed on a juvenile that is unpaid may not be replaced by a term of imprisonment.

**Article 97**  
**Execution of Orders for Community Service Work**

1. The provisions in the Law on Execution of Penal Sanctions on the execution of a sentence with an order for community service work shall apply mutatis mutandis to the execution of orders for community service work imposed on juveniles.
2. If it is in the interest of the juvenile, the Probation Service may seek assistance from or cooperation with the Guardianship Authority or the legal representative of the juvenile.
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.
4. 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.
5. If the juvenile cannot complete the community service work because of a subsequent change in circumstances for which he is not responsible, the Probation Service shall ask the court to review the order for community service work.
6. The court may, in view of the results achieved, amend the order or terminate the execution of the measure.

**Article 98**  
**Execution of Juvenile Imprisonment**

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 juveniles in educational 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 juvenile 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 99**

#### **Vocational Training and Employment**

1. During the time they serve their sentences, juveniles 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 juvenile 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 juvenile shall have an adequate training regarding the approach and working with children and required knowledge in the fields of pedagogy and psychology.

### **Article 100**

#### **Type of Facility and Internal Categorization**

1. Juvenile imprisonment shall be served in a correctional facility for juveniles, and, in exceptional cases, in separate departments of a correctional facility for adults. A correctional facility for juveniles shall be of the semi-confined type. Exceptionally juveniles 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. Juveniles who become adults during the execution of the punishment of juvenile imprisonment shall be accommodated in a separate department of the facility. Juveniles shall serve their sentences of juvenile imprisonment in a correctional facility for juveniles until they have reached the age of twenty-three (23) 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 (23) years may be allowed to remain in a correctional facility for juveniles 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 (6) months.

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 juvenile and the execution of juvenile imprisonment.

### **Article 101**

#### **Serving the Sentence Together or Separation**

1. As a rule, juveniles shall serve their sentences in joint environments with other sentenced juveniles.

2. Upon the request of a juvenile, the director of the correctional facility may permit the juvenile to be separated from other convicted persons if the director determines that the concerns underlying the juvenile's request are reasonable and there are no other alternatives for addressing the juvenile's concerns. The request of the juvenile to be separated from other persons must be submitted in written form.

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

3.1. to avert danger to the life or health of the juvenile or other persons; or

3.2. to avert a threat to the security of the correctional facility posed by the continued presence of the juvenile 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 juvenile from other convicted persons.

### **Article 102**

#### **Annual Leave and Prohibition of Solitary Confinement**

1. In accordance with a sub-legal act issued by the Ministry of Justice, the director of a facility may authorize a juvenile to take leave each year, after completion of one third (1/3) of sentence which may not be longer than thirty (30) days within one (1) year, to visit his parents, adoptive parents, guardian spouse, children, adopted child, brothers and sisters.

2. The leave shall last up to thirty (30) days and as a rule it shall be authorized when lessons are not being held.

3. The juvenile has the right to spend at least three (3) hours daily in open environment within the institution.

4. A juvenile shall not be subject to solitary confinement as a disciplinary punishment.

### **Article 103**

#### **Statutory Limitation of Execution of Juvenile Imprisonment**

1. The sentence imposed with juvenile imprisonment may not be executed when:

- 1.1. ten (10) years pass from the final ruling with juvenile imprisonment over five (5) years;
- 1.2. five (5) years pass from the final ruling with juvenile imprisonment over three (3) years;
- 1.3. three (3) years pass from the final ruling with juvenile imprisonment over one (1) year;
- 1.4. two (2) years pass from the final ruling with juvenile imprisonment up to one (1) year.

#### **Article 104** **Expenses**

The expenses regarding the execution of measures and punishments foreseen by the present Code shall be paid from Kosovo budget.

#### **Article 105** **The Guaranteed Rights of the Juvenile during Execution of Institutional Educational Measure and Juvenile Imprisonment**

1. The juvenile on whom the institutional educational measure and juvenile imprisonment is executed shall have the right, but not limited to:

- 1.1. shelter that complies with contemporary hygiene conditions and local climatic circumstances;
- 1.2. conducting of physical exercises;
- 1.3. appropriate food for health protection;
- 1.4. continuous availability with potable water;
- 1.5. clothing;
- 1.6. health care;
- 1.7. submission of appeals to competent authorities;
- 1.8. unlimited correspondence;
- 1.9. phone calls;
- 1.10. receiving of visits;
- 1.11. spending time in separate spaces;
- 1.12. receiving of packages;
- 1.13. work;

- 1.14. monthly award;
- 1.15. availability with award;
- 1.16. benefits;
- 1.17. not work due to pregnancy;
- 1.18. technical inventions and innovations achieved when serving the sentence;
- 1.19. education;
- 1.20. information;
- 1.21. practicing of religion.

2. The provisions in the Law on Execution of Penal Sanctions shall apply mutatis mutandis to the rights of juveniles, unless the present Code foresees otherwise.

#### **CHAPTER IV**

#### **ASSISTANCE AFTER EXECUTION OF INSTITUTIONAL EDUCATIONAL MEASURES OR JUVENILE IMPRISONMENT**

##### **Article 106**

##### **Assistance during and after Release**

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 juvenile, his parent, adoptive parent or guardian and the institution in which the juvenile is accommodated.
2. No later than three (3) months before the release of the juvenile, the institution or the correctional facility where the institutional educational measure or juvenile imprisonment is being executed shall inform his parents, adoptive parents or guardian and the Probation Service about this and shall propose to them measures for the reception of the juvenile.
3. The correctional facility shall notify the court and the Probation Service of the release of the juvenile.
4. The Probation Service shall offer assistance to the juvenile after release for as long as he needs it, but not longer than twelve (12) months. If it is in the interest of the juvenile, the Probation Service may seek assistance from or cooperation with the Guardianship Authority or the legal representative of the juvenile.
5. After the release of a juvenile, the Guardianship Authority shall take special care of a juvenile who has no parents and of a juvenile whose family circumstances are not settled.
6. The care may 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 juvenile.

**CHAPTER V**  
**EXECUTION OF MEASURES OF MANDATORY REHABILITATION TREATMENT OF**  
**MANDATORY PSYCHIATRIC TREATMENT**

**Article 107**  
**Subsidiary Application**

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 juveniles.

2. A juvenile shall serve a measure of mandatory treatment in a separate department of the care institution where these measures are executed.

**PART FIVE**  
**PROTECTION OF CHILDREN VICTIMS OF CRIMINAL OFFENCES**

**CHAPTER I**  
**PROTECTION OF CHILD VICTIM OR WITNESS IN THE CRIMINAL PROCEEDINGS**

**Article 108**  
**General Provisions**

1. The juvenile judge or juvenile panel shall try adults for the criminal offences when the victim is a child for the following criminal offences, as provided in the Criminal Code of the Republic of Kosovo and the Law on prohibition of joining the armed conflicts outside state territory:

- 1.1. conscription or enlisting of persons between the age of fifteen (15) and eighteen (18) years in armed conflict;
- 1.2. slavery, slavery-like conditions and forced labour;
- 1.3. smuggling of migrants;
- 1.4. trafficking in persons;
- 1.5. withholding identity papers of victims of slavery or trafficking in persons;
- 1.6. kidnapping;
- 1.7. coercion;



- 1.8. unlawful deprivation of liberty;
- 1.9. torture;
- 1.10. rape;
- 1.11. sexual services of a victim of trafficking;
- 1.12. sexual assault;
- 1.13. degradation of sexual integrity;
- 1.14. sexual abuse of persons with mental and emotional disorders or disabilities;
- 1.15. sexual abuse of persons under the age sixteen (16) years;
- 1.16. inducing sexual acts, touching or activity by persons under the age of sixteen (16) years;
- 1.17. offering pornographic material to persons under the age of sixteen (16) years;
- 1.18. abuse of children in pornography;
- 1.19. sexual abuse by abusing position, authority or profession;
- 1.20. inducing sexual acts by false promise of marriage;
- 1.21. facilitating or compelling prostitution;
- 1.22. providing premises for prostitution;
- 1.23. sexual relations within the family;
- 1.24. extramarital community with a person under the age of sixteen (16) years;
- 1.25. changing the family status of a child;
- 1.26. unlawful taking or keeping of a child;
- 1.27. mistreating or abandoning a child;
- 1.28. violating family obligations;
- 1.29. avoiding maintenance support;
- 1.30. prevention and non-execution of measures for protecting children;

- 1.31. failure to report child abuse;
- 1.32. transmitting venereal diseases;
- 1.33. spreading the HIV virus;
- 1.34. intoxicating another person with a narcotic drug or psychotropic substances;
- 1.35. joining or participation in a foreign army or police, in foreign paramilitary and para-police formations, in organized groups or individually, outside the territory of Kosovo;
- 1.36. forced marriage.

2. Article 48 of the present Code shall apply *mutatis mutandis* to proceedings involving a criminal offence committed against a child under this Article.

#### **Article 109**

#### **Application of Criminal Proceedings**

- 1. The criminal proceedings against a person who commits a criminal offence under Article 108 of the present Code shall be conducted in accordance with the provisions of the Kosovo Code of Criminal Procedure, except the provisions on the issuance of a punitive order defined otherwise by the present Code.
- 2. Police officers who specialize in this field shall investigate such criminal offences.
- 3. For criminal offences under Article 108 of the present Code shall also apply the provisions of Chapter II on protection of victim and witness children.
- 4. Article 47 of the present Code shall apply *mutatis mutandis* for procedures involving criminal offences committed against a child.
- 5. In order to protect the child who suffered harm from the criminal offence as provided by Article 108 of the present Code other relevant provisions of Law on witness protection shall also apply, except provided otherwise by the present Code.

### **CHAPTER II**

### **PROTECTION OF VICTIM OR WITNESS CHILDREN**

#### **Article 110**

#### **The Best Interest of the Child**

Every victim or witness child shall, in the context of this Chapter, have the right that his best interest to be the prevailing consideration.

## **Article 111**

### **General Principles**

1. The victim or witness child shall be treated without any discrimination.
2. The victim or witness child that suffered harm from criminal offence shall be treated in a friendly and sensible manner, respecting his dignity during the legal proceedings, taking into account personal situation and close and special needs, age, gender, disabilities, if any, and the level of maturity.
3. Interference in the private life of the child shall be limited at the necessary minimum, as provided by law, in order to ensure high standards of testifying and an objective and impartial result of proceedings.
4. Confidentiality of the information related to the victim or witness child shall be protected.
5. The information expected to identify the child as a witness or victim shall not be published without clear permission of the court.
6. The victim or witness child shall be entitled to freely express his views, opinions and convictions, with his words and shall be entitled to provide contribution on decisions that impact his life, including decisions taken during the court proceedings.

## **Article 112**

### **Procedural Actions**

1. In the criminal matters against of-fenders against a child, when conducting procedural actions, the institutions shall act with care in relation to the child who suffered harm from the criminal offence, bearing in mind his age, personal characteristics, special needs, education and the environment in which he lives, so as to avoid any possible harmful consequences for his upbringing, education and development. The examination of the child shall be duly conducted with the assistance of a pedagogue, psychologist or an-other expert.
2. The competent judge shall examine the child or juvenile injured with criminal offence as provided by Article 4 of this Article, so as the court, state prosecutor, the juvenile or the defence counsel may file questions and not be present in the same office with the injured party. Examining of the child or the juvenile shall be conducted so as the questions could be asked through the competent judge, whereas, as required, with the help of pedagogue, psychologist or the other professional person.
3. A child against whom a criminal offence may be examined as a witness in his own home or some other location where he is present or a Centre for Social Work or through technical means. Paragraph 4 of this Article shall apply to such examination.
4. If the child who suffered harm from the criminal offence according to Article 108 of the present Code is examined as a victim or witness, such an examination shall apply at most twice, as follows:
  - 4.1. examination for the first time shall be conducted with the assistance of the psychologist and shall be headed by the state prosecutor. In case a psychologist

cannot be provided the examination shall be conducted by the prosecutor without his presence;

4.2. examination for the second time shall be conducted with the assistance of the psychologist and shall be headed by the competent judge. In case a psychologist cannot be provided the examination shall be conducted by the competent judge without his presence.

5. The provisions of Code of Criminal Procedure shall apply for notification and presence of defendant and his defence counsel, representative of the injured party and his legal representative at all stages of criminal proceedings.

6. The child as a victim of criminal offence shall have an authorized representative at all stages of criminal proceedings. For the purpose of this Chapter, an authorized representative shall mean the representative as specified in paragraph 1 of Article 63 of the Code of Criminal Procedure.

7. The child shall be examined in a friendly and appropriate environment for his age and development and special needs.

8. The examination may be recorded in audio and video and that recording shall be transcribed word for word and may be used as evidence.

9. Based on paragraph 8 of this Article, every technical recording of examination through technical means shall be destroyed within five (5) years from the judgement entering into force.

10. The competent judge shall inform the competent Guardianship Authority on the facts and testified evidence in the criminal proceedings that contributed or enabled commission of the criminal offence, in order to undertake measures for protection of child's rights and wellbeing.

#### **Article 113**

#### **Removal of the Rights of Parental Care**

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 inform the guardianship authority regarding the non-contentious proceedings to remove the rights of parental care from the parent.

#### **Article 114**

#### **Obligation to Denounce Criminal Offences where the Child is a Victim**

1. It shall be the obligation of parents, teachers, doctors, social workers, defenders of victims and other categories of professionals, where appropriate, to notify the police if there is grounded basis to suspect that the child is a victim of a criminal offence.

2. According to paragraph 1 of this Article, persons shall assist the child until the child gets the proper professional assistance.

3. The obligation to denounce shall, as provided by paragraph 1 of this Article, exceed the obligation for confidentiality of information, except the cases of advocate-client confidentiality.

### **Article 115**

#### **Confidentiality of Information**

Apart from existing legal protection for the private life of victim or witness child, except Article 12 paragraph 3 of this Chapter, all persons working with the victim or witness child shall keep the confidentiality of all information on victim and witness children that may have obtained when performing their task.

### **Article 116**

#### **Protection of Children from Contact with Offenders**

1. The adult person convicted with a final decision for a criminal offence foreseen by Article 108 of the present Code, shall not be considered as a candidate to work in a service, institution or organization that provides services for children.

2. Services, institutions or organizations that provide services for children shall undertake the appropriate measures so the persons charged for a criminal offence, considered as a criminal offence against a child, have no contact with children.

### **Article 117**

#### **Victims Advocacy and Assistance Office**

Victims Advocacy and Assistance Office (hereinafter the Office) shall be obliged to ensure protection of the rights of victims in the justice system. This obligation mainly exists during the investigation proceedings, prosecution and punishment of the offender. This obligation shall also include cases when the state through the court may limit the rights and privileges of the offender of a protection order.

### **Article 118**

#### **Victims' Defence Counsel**

The victims' defence counsel is an authorized representative who shall have the jurisdiction to inform the injured party of his rights and to represent the interests of the victim in the proceedings in the prosecutor's office and court, and when necessary shall refer the victim to other service providers. The victims' defence counsel shall act on behalf of the victim, when necessary, to stop the violation of victim's rights and to request action for guaranteeing their protection.

### **Article 119**

#### **The Right to be informed**

1. The victim or witness child, parents, adoptive parent, guardian, authorized representative, victims' defence counsel from the first contact with the trial and during the entire this trial shall be immediately informed on the course of the trial and, for as much as it is possible and appropriate, on the issues below:

1.1. criminal court proceedings including both adults and juveniles, including the role of victim or witness children, importance, time and manner the testifying is provided, as well as the methods how the interviews are conducted during the preparatory or trial proceedings;

1.2. the existing supporting mechanisms for victim or witness child when he files an appeal and participates in the preparatory proceedings or court proceedings, including assigning of an authorized representative or other appropriate person, appointed to provide assistance for the victim;

1.3. the location and special schedule of sessions and other relevant activities;

1.4. availability of protection measures;

1.5. the existing mechanisms for reviewing of rulings that harm the victim or witness child;

1.6. the relevant rights of the victim and witness children;

1.7. the existing opportunities for gaining compensation from the offender or the state through court proceedings, civil proceedings and other proceedings;

1.8. availability of health, psychological, social and other relevant services and means that provide for the use of these services, as well as the availability of counselling and legal representation or any other kind and emergency financial support, if such a thing is possible;

1.9. the progress and solution of a specific case, including detention, arrest and detention on remand of the defendant, any close change of this situation, the prosecutor's ruling, relevant developments after completion of the trial and the final result of the case.

#### **Article 120**

##### **Legal Defence**

1. The legal defence for the victim children shall be done *mutatis mutandis* in accordance with the Article 63 paragraph 1 and 2 of the Criminal Procedure Code.

2. In cases when the victim or his legal representative engages no authorized representative, the court or the state prosecutor or any other authority heading the proceedings shall appoint *ex officio* an authorized representative at public expenses.

#### **Article 121**

##### **Protection Measures and Orders**

1. At every stage of the court proceedings, when the security of the victim or witness child is at risk, the competent judge shall decide to undertake protection measures for the child. These measures may include the measures provided by the relevant Law on protection against domestic violence, but not limited to:

1.1. avoid direct contact between the victim or witness child and the defendant at any stage of the court proceedings;

1.2. require protection for victim or witness child from the police or other relevant institutions and to not make public the location of the child;

1.3. undertake or request from the competent authorities undertaking of other protection measures that may be judged as appropriate.

#### **Article 122**

##### **Language, Translator and other Measures for Special Assistance**

1. The competent judge shall ensure that the procedures in relation to the testifying of the victim or witness child are conducted in a language that is simple and understandable for the child.
2. If the child needs assistance in translation to a language he understands, a translator shall be made available free of charge.
3. If it is assessed that special assistance measures should be undertaken, having into consideration the age, level of maturity or individual special needs of the child that may include, but not limited to, disabilities, if any, poverty or risk from re-victimization, in order for the child to testify or participate in the court proceedings, such measures are provided free of charge.

#### **Article 123**

##### **Medical Examination and Taking of Samples from the Body**

1. The victim and witness child is subject to medical examination or taking of samples from the body only if the requirements below are fulfilled, the court shall issue a written authorization for medical examination or taking of examinations from the body only if there are grounded reasons to believe that examination or taking of a sample from the body is necessary:
  - 1.1. parents, guardian or his supporting person are present;
  - 1.2. after hearing the child and obtaining the parents' consent.
2. If, at any stage of investigation, there is a suspicion in regards to the health of the victim or witness child, including the mental health of the child, the competent authorities that conduct proceedings shall ensure that general medical examination is carried out to the child by a doctor as soon as possible.
3. After this medical examination, the competent authority conducting proceedings shall make all efforts in order for the child to get the treatment recommended by the doctor, including also hospitalization if necessary.

#### **Article 124**

##### **Supporting Person from the Centre for Social Work**

1. From the beginning of the investigation stage and during the trial, victim or witness children shall be supported by a trained person who has the professional capabilities to communicate with children of different ages and development stages and to assist them in order to prevent the risk from violation, re-victimization.
2. The supporting person shall be appointed by the competent judge. Prior to his appointment, the competent judge shall consult the child and his parents or guardian asking also for the child's opinion on the gender of the supporting person to be appointed.

3. The supporting person shall be given sufficient time to familiarize with the child before the first interview is conducted.
4. When a child is invited for interview, the investigator shall inform the supporting person of the child for the time and the location where the interview will be conducted.
5. Every interview of the victim or witness child conducted within the court proceedings shall be conducted in the presence of the supporting person.
6. The continuity of relations between the child and the supporting person shall be ensured for as long as it is possible during the court proceedings.
7. The competent judge that appointed the supporting person shall monitor the work of the supporting person and shall assist him, where appropriate. If the supporting person fails to perform his duties and functions in accordance with this Chapter, the court shall appoint a replacing supporting person after consulting the child.

#### **Article 125**

#### **The Role of the Supporting Person**

1. The supporting person shall, among others:
  - 1.1. provide the child with responsible emotional support;
  - 1.2. provide the child with assistance appropriately for the child during the court proceedings. This assistance may include measures for litigation of negative consequences of the criminal offence for the child, measures to assist the child to continue his daily life as well as the measures to assist the child to face administrative issues arising from the circumstances of the case;
  - 1.3. provide advice if therapy or counselling is necessary;
  - 1.4. get in touch and communicate with the parents or guardian, family, friends and the authorized representative, when appropriate;
  - 1.5. inform the child on the content of investigation team or the court as well as on the other issues foreseen in this Chapter;
  - 1.6. through coordination with the authorized representative representing the child or in the absence of this authorized representative shall discuss with the court, the child and parents or his guardian in relation to the different alternatives of testifying, such as when they become available, video recording or by other means to protect the highest interest of the child;
  - 1.7. through coordination with the advocate representing the child or in the absence of this advocate shall discuss with the police, prosecutor and the court if it is advisable to issue an order for protection measures;
  - 1.8. request the issuance of the order for protection order, when appropriate;



1.9. request measures for special assistance if the circumstances of the child justify them.

### **Article 126**

#### **Examination on Capability**

1. Examination on capability of the child may be conducted only if the competent judge assesses that there is convincing reason to do so. The reasons for taking such a decision shall be registered in the court. During the taking of decision whether examination on capability should be conducted or not, the main consideration shall be higher interest of the children.

2. Examination on capacity shall seek to determine if the child is capable to or not to understand questions addressed to him in a language understandable to him, as well as the importance of telling the truth. The age of the child alone is not convincing reason to request an examination on capability.

3. The competent judge may appoint a psychologist or relevant expert for examination of child's capability. Apart from the expert, the other persons that may be present during the examination on capability shall be:

3.1. competent judge;

3.2. juvenile state prosecutor;

3.3. authorized representative;

3.4. supporting person;

3.5. every other person, including parents and guardian of the child or the guardian for the purposes of trial, whose presence, according to the assessment of the competent judge, is necessary for the wellbeing of the child.

4. If the competent judge assesses that the examination on capability of the child may be conducted without the presence of the expert whose presence may not be secured, the competent judge may continue with the assessment of the capability based on the questions asked by the prosecutor and the defending advocate.

5. The questions shall be addressed in a way that is appropriate for the child taking into consideration his age and level of development and the ones not related to matters included in the trial. By such questions it shall be sought determination of the child's capability to understand simple questions and to answer them truthfully.

6. The order for psychological or psychiatric examination to assess the child's capability shall not be issued if there are no convincing grounds to do so.

7. The examination on capability shall not be repeated.

### **Article 127**

#### **Waiting Environments**

1. The Court shall ensure that the victim or witness children have the opportunity to wait in special waiting environments, furnished in an appropriate and friendly manner for the children, including facilitations for people with special needs.
2. The waiting environments used by victim or witness children, are not visible or allowable for the persons charged for committing the criminal offence.
3. When possible, the waiting environments used by victim or witness children shall be separated from the certain waiting environment for adult witnesses.
4. The competent judge, when appropriate, may order the victim or witness child wait in a further location from the courtroom and invite the child to present when necessary.
5. The competent judge shall give priority to hearing of the evidence of victim or witness children, in order to shorten the time of waiting when presenting in the court.

### **Article 128**

#### **Emotional Support for Victim and Witness Children**

1. Apart from the parents, guardian and authorized representative or other appropriate person appointed to provide assistance, the competent judge shall allow the supporting person to accompany the victim or witness child during the time he participates in the court proceedings, in order to reduce anxiety or stress.
2. The competent judge shall inform the supporting person that he as well as the child himself may request from the court rest when the child needs it.
3. The competent judge may order removal of parents or guardian of the child from the session only when this is for the highest interest of the child.

### **Article 129**

#### **Equipment in the Courtroom**

1. The competent judge shall ensure that the appropriate arrangements are made to the courtroom for victim or witness children, such as for example but not limited only to them, use of chairs with raised seats and assistance to children with disabilities.
2. The plan of the courtroom shall ensure that, as long as it is possible, the child has the possibility to sit close to parents, guardian, supporting person or his authorized representative during the entire proceedings.

### **Article 130**

#### **Questioning from Opposing Party**

When appropriate and taking into consideration the rights of the offender, the competent judge shall not allow questioning of the victim or witness child by the offender. This questioning by the

opposing party may be undertaken by the authorized representative through the juvenile judge whose task is to prevent addressing of any question that may expose the child to intimidation, difficulty or unnecessary anxiety.

### **Article 131**

#### **Measures to Protect the Private Life and Wellbeing of Victim or Witness Children**

1. With the request of victim or witness child, parents, guardian, authorized representative, his supporting person appointed to provide assistance or based on the request of the institution, the competent judge shall, taking into consideration the best interest of the child, order one or many of the below measures to protect the private life and physical wellbeing:

1.1. to delete from archive every name, address, working place, occupation or every other information that may be used to identify the child;

1.2. to prohibit the authorized representative reveal the identity of the child or make public any material or information expected to lead towards identification of the child;

1.3. to order non-publication of documents that identify the child until the time the competent judge may assess it as appropriate;

1.4. to set a nickname or a number for the child, in cases when the full name and date of birth of the child are shown to the defendant within a reasonable period of time to prepare his defence;

1.5. to make efforts to hide traits or physical description of the testifying child or to prevent anxiety or harm to the child, including testifying;

1.6. behind a non-transparent glass;

1.7. using equipment that change the image and voice;

1.8. through questioning in a different location simultaneously transmitted to the courtroom through a closed circuit monitor;

1.9. through a questioning of a witness child recorded in videotape, before the hearing session, in cases when the authorized representative of the offender participates in the questioning and when he is given the possibility to ask the victim or witness child;

1.10. through a qualified and appropriate expert, such as for example, but not limited to him, a translator for children with hearing, seeing and talking disorders or other disabilities;

1.11. to hold close trial sessions;

1.12. to order temporary removal of the offender from the courtroom if the child refuses to testify in the presence of the defendant or if the circumstances show that the child may refrain to tell the truth in the presence of that person. In such cases, the defending advocate shall remain in the courtroom thus guaranteeing the right of the defendant for confrontation;

1.13. to allow holidays during the time the child is testifying;

1.14. to schedule sessions in those hours of the day that are appropriate for the age and maturity of the child;

1.15. to undertake every other measure that the court may assess necessary, including, *mutatis mutandis* maintaining of confidentiality and taking into consideration the best interest of the child and the rights of defendant.

### **Article 132**

#### **The Right to Restitution and Compensation**

1. The competent judge shall inform the victim or witness child, parents, guardian and his authorized representative of the procedures to ask for compensation.

2. After the punishment of the offender and apart from any other measure imposed against him, the competent judge, with the request of juvenile state prosecutor, victim, parents or his guardian or victim's authorized representative or based on the request of the institution itself may order that offender make the restitution or compensation for the child, as below:

2.1. in the case of damage, loss or destroying of the property of the victim child, as a result of committing the criminal offence or arresting or efforts to arrest the offender, the court may order the author of the criminal offence to pay the child or his legal representative the amount of the replacement of the property in case it shall not be able to be completely restored;

2.2. in the case of physical or psychological harm against the child, as a result of committing the criminal act or attempt to arrest the offender, the competent judge may order the offender to financially compensate the child for all the damages caused as a result of crime, including expenses related to social and educational re-integration, medical treatment, mental health care and legal services;

2.3. in the case of physical harm or threat for physical harm against the child, who was member of the offender's family at the relevant time, the competent judge may order the offender to pay the child compensation for the expenses made as a result of removal from his family.

### **Article 133**

#### **Information on the Final Result of the Court**

1. The competent judge shall inform the child, parents or his guardian and the supporting person of the final result of the court.

2. The competent judge shall invite the supporting person to provide emotional support for the child, to assist him accept the final result of the court, if necessary.

### **Article 134**

#### **The Role of the Supporting Person after the Completion of Court Proceedings**

1. Immediately after the completion of court proceedings, the supporting person shall connect

with the appropriate organizations and professionals to ensure that the victim or witness child is provided with further counselling and treatment, if necessary.

2. In case the victim or witness child must be repatriated, the supporting person shall connect with the competent authorities, including consulates, in order to provide proper implementation of relevant national and international provisions that regulate repatriation of children and to assist the child during his efforts for repatriation.

## **PART SIX TRANSITIONAL AND FINAL PROVISIONS**

### **Article 135**

Special provisions for counting of terms 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 present Code, except if under the previous provisions the period of time was longer.

### **Article 136**

#### **Application of the Provisions of the Previous Applicable Code**

If until the day of entry into force of the present Code there was a motion presented for imposition of the measure of punishment pursuant to the provisions of the Code No. 03/L-193 on Juvenile Justice Code (Official Gazette of the Republic of Kosovo No. 78/ 20.08.2010) the proceedings shall be terminated in accordance with those provisions.

### **Article 137**

#### **Execution**

1. The diversion and educational imposed measures and final decisions by which the punishment is imposed, which became final prior to the entry into force of this Code shall be applied in accordance with the provisions of the Code No. 03/L-193 on the Juvenile Justice Code (Official Gazette of the Republic of Kosovo No. 78/ 20.08.2010).

2. Execution of the diversion and educational measures as well as of the criminal sanctions initiated prior to the entry into force of this Code in accordance with the Code No. 03/L-193 on the Juvenile Justice Code ("Official Gazette of the Republic of Kosovo No. 78/ 20.08.2010) shall continue in accordance with those provisions.

### **Article 138**

#### **Initiated Proceedings**

1. Proceedings initiated prior to entering into force of the present Code shall be completed in accordance with the provisions of the Code No. 03/L-193 on the Juvenile Justice Code ("Official Gazette of the Republic of Kosovo No. 78/ 20.08.2010).

2. If the proceedings from paragraph 1 of this Article, after entry into force of this Code, the judgement respectively decision by which the proceedings are completed is dismissed and return for retrial, the repeated proceedings shall be applied in accordance with the provisions of this Code.

**Article 139**  
**Issuance of Sub-legal Acts**

The sub-legal acts foreseen with this Code shall be issued in a one (1) year term from the day of entry into force of this Code.

**Article 140**  
**Invalidity of the Existing Code**

Upon the entry into force of this Code, the Code No. 03/L-193 on the Juvenile Justice (“Official Gazette of the Republic of Kosovo No. 78/ 20.08.2010) shall become invalid.

**Article 141**  
**Entering into Force and Beginning of Application of the Code**

This Code shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo and it shall be applied after six (6) months from the day of entering into force.

**Code No.06/L - 006**  
**14 September 2018**

**Promulgated by Decree No.DL-038-2018, dated 04.10.2018, President of the Republic of Kosovo Hashim Thaçi.**