



Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Bulgaria

June 2013

This National Report has been prepared by Aneta Genova Mircheva for Milieu Ltd in partnership with ICF GHK under Contract No JUST/2011/CHIL/PR/0147/A4 with the European Commission, DG Justice.

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Executive summary

Overview of the general elements of child-friendly justice in criminal proceedings

Overview of children's involvement before, during and after judicial proceedings

Every child has the right to take part in any criminal proceedings when his/her rights are affected. There are no specific provisions covering a child victim's/witness' ability to report a crime to the police or other competent authorities in Bulgaria. Thus, according to the general rules, children under 14 years of age may report a crime via their parents and children of 14 years of age and above can report a crime on their own with their parents'/guardians' consent¹. Such a report provides legal grounds for the initiation of pre-trial proceedings². There is no specific requirement for the application of the general rule on capacity. Therefore, the Competent Authority (CA) has discretion on whether to apply the rule and to require or not the presence of the parents.

Children may however personally inform the Child Support Department of offences committed against them regardless of their age. Several provisions have been identified with respect to a child victim's right to information, even though such rules are in principle applicable to all victims and not only child victims. Furthermore, the Bulgarian legislator has introduced measures to ensure that child victims are protected from harm (e.g., urgent police protection, civil law orders for protection, special protection for victims of trafficking) and that their private and family life is kept safe. In addition, a few mechanisms to protect children from secondary victimisation have been identified such as the examination of child victims in special rooms called 'blue rooms' in the presence of a psychologist or pedagogue. In some cases, examination by the investigating authority can be recorded via audio-visual means and may be shown at trial if the child is below 14 years of age and he/she was examined in the presence of a judge.

Child victims (like adults) who have become civil claimants and/or private accusers in criminal proceedings have the right to have legal counsel. If the victim does not have enough money to pay for a lawyer, but he/ she wants to have legal protection, the court has an obligation to appoint him/her a counsel. Child victims can seek compensation for the damages they have incurred either by constituting themselves as civil claimants at the criminal trial or by directly seeking directly compensation from a civil court.

Criminal responsibility is generally only applicable to persons who are above 18 years of age. However, children between 14 and 18 years of age can be criminally responsible if they are able to understand the nature of their acts and are able to control their conduct. Nevertheless, criminal law provides special rules for the criminal responsibility of child offenders. Children below the age of 14 cannot be held criminally responsible; when a child between 8 and 14 years of age commits a crime or another anti-social act, the Local Commission for Combating Anti-social Behaviour of Minors and Adolescents will impose correctional measures on him/her.

No special rules on a child suspect's right to information have been identified; thus, child suspects are informed of their rights when indicted, in the same way as adult suspects. Even though the parents or the guardians of the accused child must be informed of all aspects of the proceedings, their participation is not a condition for the validity of the acts of the prosecutor, the investigating authority or the court. This study found no information on whether the child has the opportunity to contact parents or a person they trust; nor whether he/she is immediately cautioned on the right to silence, nor whether there are any legal time limits in the arrest of a child.

Concerning pre-trial detention, child suspects who are not yet indicted can be held in a detention facility by the police for up to 24 hours or up to 72 hours after a decision by a prosecutor. After being indicted, children who are above 14 years of age can be subject to pre-trial detention as a measure of last resort.

In order to ensure that the private and family lives of child suspects are protected, court sessions in cases where child offenders are involved are private and there is a general prohibition to disseminate

¹ Articles 3 and 4 of LPF. ([Закон за лицата и семействата](#)) 1949.

² Article 208 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

information which is collected during the court proceedings. Furthermore, the prosecutor may decide to refrain from criminal proceedings if the child, due to aberration or thoughtlessness, committed a minor crime. Several other measures have been introduced to minimise the burden of court proceedings on child suspects/defendants. These include at the hearing, the participation of inspectors from the Children's Pedagogical Rooms and persons from the accused child's school; the prohibition of the participation of private accusers in criminal proceedings against child suspects; and the temporary removal of the child defendant from the court room, if the discussion may have a negative impact on the child.

Child suspects/defendants must always be represented by a lawyer. If the accused child or his/her parents/guardians cannot afford a lawyer, the court has the obligation to appoint one, without a requirement to prove lack of financial resources. The pre-trial investigation must be completed by a specially trained investigator who must ensure that the relevant evidence is collected in a manner which is as child-friendly as possible. A pedagogue or a psychologist must take part in the pre-trial proceedings and/or in the court hearings to support the child defendant, if deemed necessary by the prosecutor/investigator (at the pre-trial stage) or the judge (at the trial stage).

Child offenders in Bulgaria may be subject to corrective educational measures (e.g. warning, obligation to apologise to the victim, placement under the supervision of parents etc.) Children above 14 years of age found guilty of a crime can be subject to criminal sanctions, including the deprivation of liberty. Child offenders who are deprived of their liberty are held in separate facilities from adult offenders. Sentences imposed upon children and adults are recorded in a special register. The rules for the exoneration of children who have committed crimes allow children to be exonerated more quickly than adults³.

Promotion and monitoring of a child-friendly approach to criminal justice, with an overview of strengths and potential gaps

The Agency for Child Support (ACS) is the institution mostly responsible for promoting and ensuring a child-friendly approach in all judicial proceedings. Local Commissions, established to combat anti-social acts committed by children, are responsible for the protection of the rights of children in conflict with the law. Furthermore, a special prosecutor's network is in the process of preparing rules to ensure child-friendly criminal proceedings. There are also several NGOs which support child victims.

The strengths of the Bulgarian law system lie in maintaining the child's best interests during judicial proceedings. The gaps relate to child offenders (lack of professional training of officials working with children, lack of a specialised court to adjudicate cases involving child offenders, lack of rules to ensure that the child offender is tried in child-friendly courtrooms).

³ See Article 86, para. 4 of PC according to which "The exoneration shall take place by right in the following cases: [...] when a person has been convicted as juvenile, if within a period of two years from serving his/hers sentence he/she did not commit another crime of general nature for which the penalty imposed was imprisonment".

Abbreviations

ACS	Agency for Child Support
BHC	Bulgarian Helsinki Committee
CA	Competent Authority
CABMAA	Combating Anti-social Behaviour of Minors and Adolescents Act
CoE	Council of Europe
CHTA	Combating Human Trafficking Act
CPC	Criminal Proceeding Code
CPR	Children’s Pedagogical Rooms
CRC	UN Convention on the Rights of the Child
CSD	Child Support Department
DSA	Direction ‘Social assistance’
DVPA	Domestic Violation Protecting Act
EA	Equal Act
EC	European Commission
ECtHR	European Court of Human Rights
EU	European Union
EPAA	Execution of Punishments and Arrests Act
JSA	Judicial Systems Act
LPF	Law for the Persons and Families
LPPJRCP	Law for Protection of Persons in Jeopardy Related to the Criminal Proceeding
MIA	Ministry of Internal Affairs
MLSP	Ministry of the labour and Social Politics
NCACCV	The National Council for assistance and compensation for crime victims
NGO	Non-governmental organisations
RCPR	Regulation for Children's Pedagogical Rooms
PC	Penal Code
RFUSISPI	Regulation for the Function of Upbringing School Institutions and Social-Pedagogic Institutions
ROFHTPMA	Regulation for Organisation and Function of Homes for Temporary Placement of Minors and Adolescents Act
RTA	Radio and Television Act
SACP	State Agency for Child Protection
SFCVCA	Support and Financial Compensation of Victims of Crimes Act
SMLDA	State and Municipalities Liability for Damages Act

1 Overview of Member State's approach to children in criminal proceedings and specialised services dealing with such children

The Bulgarian legal framework relevant to children in criminal proceedings combines criminal and civil law provisions. The institutions involved and the relevant laws and policies vary, depending on whether the child is a suspect or a victim. As a rule, victims are also witnesses in criminal proceedings. In most of the cases the victim is the key witness for the prosecution.

There are some differences in the way the legislation treats witnesses who have not been victims of an offence and witnesses who were the victims of the punishable act. These differences are related mostly to the right to compensation and the right to be informed of the proceedings in which the child is involved. There are special rules for child victims of trafficking⁴. The Criminal Proceeding Code 2006 (CPC) ([Наказателно-процесуален кодекс](#)) contains specific rules that apply to child suspects below 18 years of age.

For the purposes of this study, only a brief overview of the key elements of the institutional framework relevant to children is provided. For a more detailed description of the Bulgarian criminal justice system, please see the European Commission's [E-justice portal](#) and the [European Judicial Atlas](#).

Youth Justice System – Child suspects, defendants and offenders

Within the Bulgarian Youth Justice system, two separate sub-systems have been established: one has special administrative bodies established to combat children's anti-social acts⁵. The other has criminal courts dealing with crimes committed by children. There are no special juvenile courts or judges specialised in juvenile cases⁶.

Children who commit anti-social acts and/or who are suspects, defendants or offenders are subject to special rules under the Combating Anti-social Behaviour of Minors and Adolescents Act (CABMAA). In addition, non-judicial bodies are engaged in the prevention of criminal acts such as running away from home, contacting criminals, etc⁷. The following services are of particular importance⁸:

⁴ Special rules regarding to the children victims of trafficking are found in Articles 21 to 26 of the Combating Human Trafficking Act 2003 (ЧНТА) ([Закон за борба с трафика на хора](#)).

⁵ Combating Anti-social Behaviour of Minors and Adolescents Act (CABMAA) ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958 provides general rules related to the commission of anti-social acts by children. Article 49a of CABMAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958 considers as 'anti-social' every act which is against the common moral principles and which would be consider as a crime if it was committed by adult.

⁶ Note that there is a project to repeal the existing CABMAA and to adopt a new act regulating measures to control deviant behavior of children as well as to establish specialised prosecution and jury composition comprised of experts in implementing child-friendly justice; see Conception for Government Politics for Juvenile Justice ([Концепция за Държавна политика в областта на правосъдието за деца](#)).

⁷ Article 49a of CABMAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958. Note that there is no list of acts which can be considered as 'anti-social'. For example, escaping from the home and from the school, prostitution, contact with criminals etc. are considered as anti-social acts in the established practise of the courts. With respect to the escaping from school and prostitution see also paragraph 68 from European Court of Human Rights (ECtHR) decision 'A. and others v. Bulgaria' issued on the ground of complaint No 51776/2008.

⁸ Article 2 of CABMAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958.

- **Commissions for Combating Anti-social Behaviour of Minors and Adolescents** (*Комисии за борба срещу противообществените прояви на малолетните и непълнолетните*), presented in detail later in this Section;
- **Children's Pedagogical Rooms (CPR)** (*Детски педагогически стаи*), which are administrative bodies aimed at preventing children's anti-social acts and protecting children's rights⁹;
- **Social-pedagogic institutions** (*Социално-педагогически интернати*), which are institutions for the placement, education and correction of children above eight years of age who committed or may commit anti-social acts¹⁰;
- **Upbringing schools – institutions** (*Възпитателни училища-интернати*), which are institutions for the placement, education and correction of children over eight years of age who re-commit an anti-social act and/or who commit crimes of a not dangerous nature because of thoughtlessness¹¹;
- **Homes for temporary placement** (*Домове за временно настаняване на малолетни и непълнолетни*), which are facilities for the placement of children over six years of age without a known address and/or who are caught begging, using alcohol/ drugs or engaging in prostitution, or who have escaped from correctional institutions or places for involuntary treatment. Police protection for children at risk may also be ensured in these facilities¹²;
- **Asylums for homeless children** (*Приюти за безнадзорни деца*), which are facilities for the temporary placement of children without parental care regardless of their age. The placement here may be up to three months¹³.

These administrative bodies aim at discouraging or preventing offences, finding offenders when a crime is committed and observing the behaviour of children who are offenders and/or defendants before and after the imposition of special corrective measures. The key body in this respect is the **Central Commission for Combating Anti-social Behaviour of Minors and Adolescents**. The Central Commission is established by the Council of Ministers. It is a legal person and is financed by the Government¹⁴. However, Local commissions also exist.

The **Local Commissions for Combating Anti-social Behaviour of Minors and Adolescents**, in co-operation with the community, schools and the CPR are entrusted with organising activities for the prevention of child delinquency and the commission of anti-social acts. They impose measures on the child's upbringing and may suggest to the court the imposition of measures such as placement in special institutions or the withdrawal of measures already imposed. In addition, they supervise the implementation of all measures. They also help children who are released from special institutions and exercise control on the behaviour of their employer, if applicable. Further, they help the parents if they face difficulties handling their children. Local Commissions for Combating Anti-social Behaviour of Minors and Adolescents also exercise control over the CPR and special institutions within their territory as well as parents; if there is evidence that parents neglect or abuse their

9 Article 1 of Regulation for Children's Pedagogical Rooms (RCPR) ([Правилник за детските педагогически стаи](#)).

10 Article 3 of Regulation for the function of upbringing school institutions and social-pedagogic institutions (RFSPUI) 2006 ([Правилник за дейността на възпитателните училища-интернати и социално-педагогическите интернати](#)).

11 Article 2 of RFSPUI 2006 ([Правилник за дейността на възпитателните училища-интернати и социално-педагогическите интернати](#)).

12 Article 1 of Regulation for Organisation and Function of Homes for Temporary Placement of Minors and Adolescents Act (ROFHTPMA) 1998 ([Правилник за организацията и дейността на домовете за временно настаняване на малолетни и непълнолетни](#)).

13 Regulation for organisation and function of asylums for homeless children (ROFAHC) 2006 ([Правилник за устройството и дейността на приютите за безнадзорни деца](#)).

14 Article 4, para. 2 of CABMAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958.

children, the commission has the right to order the parents to follow an educational programme, impose sanctions or inform the prosecutor¹⁵.

Criminal Trials

Children of 14 years of age and above are considered as criminally responsible for their acts if they can understand the nature of their offence¹⁶. If the child does not understand the nature of the offence, and the child therefore cannot be considered guilty of the crime, the court may place him/her in a special correctional school¹⁷. According to the PC 1968, punishment imposed on children should be of a corrective and educational nature¹⁸.

Young victims and child protection systems

In Bulgaria, there are no special rules in criminal legislation regarding child victims and persons who are in need of support after being abused. The CPC ([Наказателно-процесуален кодекс](#)) 2006 protects to a larger extent the rights of the defendants than the rights of the victims¹⁹. Nevertheless, there are specialised regulations that provide for the support of victims under certain circumstances²⁰.

In general, the prosecutor starts criminal proceedings against the suspect, but in some cases which are considered of minor significance (e.g., minor bodily injury or average bodily injury by a family member) the victim must initiate proceedings on his/her own²¹. The prosecutor does not take part in these proceedings²². However, exceptionally when the victim is a child, the prosecutor can initiate criminal proceedings on his/her behalf²³.

All victims (both children and adults) have a number of rights in criminal proceedings. The injured person has the right to be constituted as an accuser (a private prosecutor)²⁴ and as a civil claimant²⁵ in criminal proceedings. The child exercises this right through his/her parents or guardian if he/she is under 14 years of age or with their consent if the child is 14 years of age or over. If there is a conflict of interests between the child and his/her parent(s) or guardian(s), the prosecutor or the investigating body (at the pre-trial stage) or the judge (at trial) must appoint a special representative (an attorney-at-law) to the child for the proceedings²⁶.

¹⁵ A full list of the tasks is provided in Article 10, p. 1 of CABMAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958.

¹⁶ Article 31 para. 2 of PC ([Наказателен кодекс](#)) 1968, "A juvenile who has accomplished 14 years of age but has not accomplished 18 years of age shall be criminally responsible if he/she is capable of understanding the quality and the meaning of the act and guide his/her conduct".

¹⁷ Article 3 para. 2 of PC ([Наказателен кодекс](#)) 1968.

¹⁸ Article 49 of CPC 1968. According to this article the prosecutor has the right to start criminal proceedings even in cases which are normally not prosecuted by the State if the injured person is helpless or if he/she depends on the perpetrator. Theoretically this article applicable is children's cases too.

¹⁹ See for example Article 15 of CPC 2006 ([Наказателно-процесуален кодекс](#)).

²⁰ See SFCVCA SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

²¹ These proceedings are called 'private criminal proceedings' in contrast to 'public criminal proceeding', led by the prosecutor.

²² Article 161 of PC ([Наказателен кодекс](#)) 1968.

²³ Article 49 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁴ Article 76 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006. The private accuser takes part in the proceedings and has the right to collect evidence, to make requests and to appeal against the court's decision. Even if the prosecutor requests the termination of the proceedings, the private accuser may ask for their continuation. The position of the private accuser does not need to coincide with that of the public prosecutor.

²⁵ Article 84 of CPC ([Наказателно-процесуален кодекс](#)) 2006. The civil claimant is a person who is damaged by the crime and asks compensation for his/her damages in the course of the criminal proceedings.

²⁶ Article 101, para 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006 - "Where the interests of the juvenile or of the under-aged victim and of his/her parent, guardian or trustee are in conflict, the respective body shall appoint for him/her a special representative – attorney-at-law." This rule is applicable to any stage of the criminal proceedings.

The general court adjudicates cases where child victims are involved. Police officers, prosecutors and judges are not required to have special training to work with children.

In addition, special rules for the protection of child and adult witnesses are set to ensure their protection in case of a manifest danger. These include personal physical security for the witness and/or keeping his/her identity a secret²⁷.

Child Protection Systems for abuse and neglect

The Child's Protection Act 2000 (CPA) ([Закон за закрила на детето](#)) established a special system for the protection of children who are victims of abuse and neglect. It comprises administrative bodies responsible for ensuring the protection of the child's best interests. Children who are at risk of abuse or are victims of abuse are classified as 'children at risk'²⁸. In particular, a 'child at risk' is considered to be any child who is permanently deprived of parental care, who is a victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment either in or outside of his/her family environment, as well as any child whose physical, mental, moral, intellectual and social development is endangered²⁹. There are measures provided for the protection of these children³⁰, including police protection³¹.

Policy documents have been developed to ensure coordination between the institutions working to protect children from abuse and neglect. The National strategy for the child 2008-2018 ([Национална стратегия за детето 2008-2018](#))³² refers to problems which children regularly face such as exploitation, abuse and neglect. It provides measures to ameliorate the situation of these children and support their families as well as educational measures and measures to prevent abuse, neglect and exploitation. The Strategy also aims at improving training to professionals working with child victims of abuse and exploitation³³.

In cases of child abuse, the institution/organisation that first becomes aware of the case must notify the competent authorities (CA), i.e. the Child Support Department (CSD), the prosecutor, the police, the school (if applicable), the child's personal doctor (if applicable) and NGOs who work to protect children's rights, the CPR and any authority which may help that child³⁴. Shortly after that, members of the institutions/organisations involved in the case organise a meeting to plan the measures to protect the child at risk³⁵.

Bodily harm committed against a child is not considered a crime in all cases. For example, average bodily injury³⁶ against a family member cannot be prosecuted by public prosecutor

²⁷ Article 123 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁸ Paragraph 1 para 6 (a), (b) and (c), Additional Provisions of CPA ([Закон за закрила на детето](#)) 2000.

²⁹ *ibid.*

³⁰ Articles 4, 5 and 11 of CPA ([Закон за закрила на детето](#)) 2000.

³¹ Articles 37-39 of CPA ([Закон за закрила на детето](#)) 2000.

³² The National strategy for the Child 2008-2018 ([Национална стратегия за детето 2008-2018](#)) was adopted with a decision of the Government published at the State Gazette on 12 February 2008.

³³ An agreement between the Ministry of Labour and Social Policy (MLSP) ([Министерство на труда и социалната политика](#)), the State Agency for Child's Protection (SACP), the Ministry of Internal Affairs and number of other ministries was signed on 15 March 2010 to implement the National Strategy for the Child. The agreement is called 'Coordination mechanism for cases involving child victims or children at risk of abuse and for cooperation in cases of intervention' ([Координационен механизъм за взаимодействие при работа в случаи на деца, жертви или в риск от насилие и за взаимодействие при кризисна интервенция](#)).

³⁴ In some cases the director of institution(s) which care for children deprived of parental care, municipality representatives, directors of detention facilities may also be involved. The persons and authorities involved each time are determined on a case by case basis.

³⁵ Information obtained through an interview with an NGO.

³⁶ According to Article 129 para. 2 of PC ([Наказателен кодекс](#)) 1968 average bodily injury is defined as an injury which causes: permanent loss of vision or hearing; difficulties in speech or in the movement of the limbs, body or neck; problems in the functioning of the reproductive organs without causing reproductive failure; broken jaw or teeth which do not lead to difficulties when chewing or speaking; disfigurement of the face or other body parts; permanent health disorder which is not dangerous to the life; injuries that penetrate the skull, chest and abdomen.

as these cases are not considered to be in the public interest³⁷. The victim must initiate criminal proceedings by himself/herself without help from the public prosecutor³⁸. Only in extraordinary cases, where a victim (adult or child) of crimes prosecuted on a complaint is not able to defend his/her rights due to a helpless status or dependence on the perpetrator of the crime, will the public prosecutor intervene.

The general rule also is applicable when the injured person is a child³⁹.

If the child is under 14 years of age, the parents or guardian have the responsibility to file the complaint on behalf of the child-victim. If the child victim is above 14 years of age, he/she can file a complaint but with the consent of his/her parents or guardian. If the parents/guardian omit to act on behalf of the child (or to give their consent) and this omission damages the child's interests, the parents or guardian would be accused of neglect⁴⁰.

Apart from that, no specific rules for the protection of child victims of domestic violence have been identified⁴¹. Cases of domestic violence are adjudicated by the civil justice system in Bulgaria. This means that even in serious cases of domestic violence against a child, the prosecutor will refuse to initiate criminal proceedings. The parent who is not responsible for the injury may ask the court to initiate criminal proceedings and/or seek recourse to civil proceedings for the protection of his/her child. In case of a parent who does not want or who does not have the capacity to start criminal and/or civil proceedings, the Director of the Child Support Department (CSD) (*Отдел „Закрила на детето“*) may start such cases on behalf of the child⁴².

Child victims in Bulgaria are protected under the same provisions as adult victims. A victim is anyone who has suffered harm or damages due to a crime. If the victim dies, the heirs obtain the status of victims⁴³.

Child victims, like adults, are the most important witnesses in criminal proceedings. There are special rules related to child victims as witnesses in criminal proceedings⁴⁴. The presence of a pedagogue or a psychologist is obligatory during the proceedings when a child under 14 years of age takes part in them⁴⁵. If the child is 14 years of age or above, the presence of a pedagogue or a psychologist is at the discretion of the judge⁴⁶. The person who leads the examination of child victims (and witnesses) under 14 years of age has the obligation to explain to him/her the need to testify truthfully, but without warning him/her of his/her criminal responsibility in case of lying⁴⁷.

Experts' education and training

Bulgarian law does not generally require professionals in the juvenile justice system to have obtained specific expertise in this area. However, cases of crimes perpetrated by children should be investigated and tried by authorities with special training or professions. This

³⁷ According to Articles 161 para. 1 and 129 of PC (*Наказателен кодекс*) 1968.

³⁸ According to Articles 161 para.1 and 129 of PC (*Наказателен кодекс*) 1968.

³⁹ Article 49 of CPC (*Наказателно-процесуален кодекс*) 2006.

⁴⁰ Article 181 para 1 PC (*Наказателен кодекс*) 1968. The prosecutor has discretion to decide whether the body injury may be considered as a crime under Article 181 para 1 1 PC (*Наказателен кодекс*) 1968.

⁴¹ It should be noted that Article 187of PC PC (*Наказателен кодекс*) 1968 provides in a certain way a specific penal response to child abuse: "Who tortures a minor or underage person placed under his care or whose bringing up is assigned to him, unless the act represents a more serious crime, shall be punished by imprisonment of up to three years or by corrective labour, as well as by public reprobation" Nevertheless, both the average and light bodily injuries are prosecuted mainly by motion of the victim which creates serious uncertainty for victims who had been assaulted by their close relatives.

⁴² Article 15 para. 7 of CPA (*Закон за закрила на детето*) 2000.

⁴³ Article 74 paras. 1 and 2 of CPC (*Наказателно-процесуален кодекс*) 2006.

⁴⁴ Article 140 of CPC (*Наказателно-процесуален кодекс*) 2006.

⁴⁵ Article 140 para. 1 of CPC (*Наказателно-процесуален кодекс*)2006.

⁴⁶ Article 140 para. 2 of CPC (*Наказателно-процесуален кодекс*)2006.

⁴⁷ Article 140 para. 4 of CPC (*Наказателно-процесуален кодекс*) 2006.

requirement does not concern child victims⁴⁸. For example, judges must have obtained a law degree⁴⁹; experts working in CPR must have a pedagogical education⁵⁰; social workers in the CSD should have expertise in social care but if this is not possible, any person with a university degree can work as social worker. In addition, these professionals do not have the obligation to regularly enhance their knowledge and skills related to their work with children. There is an internal network of specialist prosecutors at all levels of the prosecution offices available for crimes committed by children⁵¹. Juvenile pedagogical offices (where specialised police officers having formal qualifications on the rights and needs of children work) are established and attached to the municipal councils and are managed by inspectors with a university degree in pedagogy, who are appointed by the Minister of Interior Affairs⁵².

A few NGOs organise training but not in a systematic way⁵³. In general, this training is related to case management, dealing with a child at risk and understanding the CPA ([Закон за закрила на детето](#)) 2000. There is no training for prosecutors or judges working with children.

Finally, professionals working with and for children are not subject to regular vetting to ensure their suitability to work with children⁵⁴.

General Approach towards children: definition of child, participation, age and maturity, discrimination

The general approach towards children is based on the UN Convention on the Rights of the Child (CRC). Indeed many initiatives related to the protection of children's rights are attempts to implement the UN Committee recommendations in its observational reports⁵⁵.

The juvenile justice system is parallel to the child protection system⁵⁶. Very often there is controversy between these two systems: the role of CSD experts is to support children in conflict with the law (as children at risk), but it also often formally participates in the criminal proceedings. The experts from the CPR take part in the judicial proceedings and they are more involved than the social workers from CSD. The law is not wholly clear on the role of social workers from CSD in criminal proceedings where child victims/witnesses participate. In contrast with civil proceedings, (where it is clearly provided that social workers have an obligation to prepare reports on the child's situation and to prepare the child for the hearings if the child is above 10 years of age), in criminal proceedings social workers are not explicitly required to take part and support children during the proceedings. Usually experts from NGOs play a coordinating role when necessary to ensure that the child is supported and protected. NGOs also try to educate CSD and/or CPR experts and to convince them to act in the best interests of the child. However, child witnesses usually do not benefit from this kind of protection⁵⁷.

⁴⁸ Article 385 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁴⁹ The Judicial Systems Act (JSA) ([Закон за съдебната власт](#)) 2007 contains the rules concerning the education of judges who enter the profession as well as requirements for judges' continuous training. However, there are no rules and no special training programmes for judges who work with children.

⁵⁰ Article 26 para. 2 of CABMAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)) 1958.

⁵¹ It is established by the Order of the Prosecutor General from 23.04.2012.

⁵² Article 26 of CABMAA.

⁵³ For example, the Institute for Social Activities and Practices (ISAP) organises training for professionals who work with children. For further information please see: <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&ved=0CEMQFjA>.

⁵⁴ Information obtained through an interview with the Bulgarian Helsinki Monitor (BHM).

⁵⁵ In June 2008 (48th session) the UN Committee on the Rights of the Child issued its [Concluding Observations for Bulgaria](#).

⁵⁶ The children's protection system consists of administrative bodies (ACS; CSD) and the rules aimed at protecting children's rights in case of risk. This system was established with the Child Protection Act in 2000.

⁵⁷ Article 5 para 1 of CPA ([Закон за закрила на детето](#)) 2000 may be interpreted as covering also child witnesses.

Generally, children should be protected within every kind of judicial proceedings and should receive proper support. They have the right to express themselves in all proceedings if their rights are affected⁵⁸.

Age and maturity

Every person under 18 years of age is considered to be a child⁵⁹. There are no age limits for the child's participation in criminal proceedings if the child has the ability to express what he/she knows about the crime. Children who are above 10 years of age have the right to take part in judicial and administrative proceedings and express their opinion⁶⁰. Even younger children can take part in the proceedings if the court or the investigation body decides that they have the ability to understand the circumstances related to their case and testify on them. If there is any doubt in this regard, the relevant authority (court, prosecutors or the investigating body) has the obligation to assess the child's capacity to understand the circumstances of the case and testify about them⁶¹. If the authority (investigating body, prosecutor, judge) has no any doubt, he/she is free to accept the child's testimony without any assessment.

Bulgarian law does not provide any measures related to the assessment of the child's capacity to form his/her own views. The social worker or pedagogue present during the proceedings should guarantee that the child testifies without any influence regarding what he/she perceives as real⁶².

Non-discrimination

According the CPC ([Наказателно-процесуален кодекс](#)) 2006 all citizens are equal before the law⁶³. Children are further protected from discrimination by The Equality Act 2004 (EA) ([Закон за защита от дискриминация](#)) which prohibits direct and indirect discrimination, harassment, victimisation etc., on the basis of, amongst other things, age⁶⁴. Thus, this legislation explicitly prohibits discrimination on the grounds of age⁶⁵. The EA ([Закон за защита от дискриминация](#)) 2004 is applicable to criminal proceedings even if there is no specific provision in this regard in the CPC ([Наказателно-процесуален кодекс](#)) 2006⁶⁶.

⁵⁸ CPA ([Закон за закрила на детето](#)) 2000.

⁵⁹ According to the Law for the persons and families (LPF)1949 ([Закон за лицата и семействата](#)).

⁶⁰ Article 15 of CPA ([Закон за закрила на детето](#)) 2000.

⁶¹ Article 144 para. 2 p. 4 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁶² Information obtained through an interview with the ВНС.

⁶³ Article 11 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁶⁴ Article 4 para. 1 of EA ([Закон за защита от дискриминация](#)) 2004.

⁶⁵ Article 4 of EA ([Закон за защита от дискриминация](#)) 2004.

⁶⁶ Article 6 para. 1 of EA ([Закон за защита от дискриминация](#)) 2004.

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

2.1.1 Reporting a crime

Criminal proceedings in Bulgaria are initiated, when there is legal ground and enough evidence that a crime has been committed⁶⁷, either *ex officio* (for some crimes)⁶⁸ or upon the submission of a complaint by the victim. Furthermore, both adults and children can report crimes of which they become aware.

There are no specific provisions on children's ability to report a crime in Bulgaria. Thus, according to the general rules, children under 14 years of age may report a crime via their parents and children 14 years of age or above can report a crime by themselves with their parent's/guardian's consent⁶⁹. There is no specific requirement for the application of the general rule on capacity. Therefore, the CA has discretion over whether to apply the rule and to require or not the presence of the parents. The report can be submitted orally or in writing⁷⁰. Moreover, children can also inform the CSD of any offences committed against them⁷¹.

Children have the right to lodge complaints and participate and express their views in all proceedings that affect their rights. To better enforce their rights, children have the right to request support from the children's protection authorities, even without their parents' consent if this is considered to be in their interest. It appears that children may report a crime directly only through the CSD as there is no age requirement for the reporting of a crime under the criminal procedures.⁷² The CSD's expert has an obligation to report to the prosecutor any crimes reported by children.

There is also a free telephone hotline for children⁷³. Every child can call the number 116 111 and if he/she is at risk, the personnel from the call centre have an obligation to immediately

⁶⁷ Article 207 para.1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁶⁸ In general, the criminal proceedings start *ex officio*. Article 161 of PC ([Наказателен кодекс](#)) 1968 provides several exceptions which are as follows:

- minor bodily injury, when the subject of a crime is not a policeman or community representative (Articles 130 and 131 of PC).
- minor and average bodily injury in cases where the victim provoked the offender (Article 132 of PC ([Наказателен кодекс](#)) 1968).
- disclosure of somebody's secret (Article 145 of PC ([Наказателен кодекс](#)) 1968);
- insult and defamation (Articles 146 to 148a of PC ([Наказателен кодекс](#)) 1968);
- average bodily injury, inflicted upon a member of the family. (Article 129 of PC ([Наказателен кодекс](#)) 1968).

⁶⁹ According to information obtained through an interview with the BHC children can submit a complaint by themselves to the CSD. If they submit a complain to the prosecutor he/she will ask parents or guardians to confirm the complaint or submit a new one.

⁷⁰ Article 209 of CPC ([Наказателно-процесуален кодекс](#)) 2006. See also Article 145 of JSA ([Закон за съдебната власт](#)) 2007: "(1) When exercising the functions stipulated in the law the prosecutor may: 3. in case of information about crimes or illegal acts and actions assign the authorities in charge to perform inspections and revisions within terms specified by him, providing their conclusions to him, and upon request - all materials." Therefore, under this provision the report may be anonymous.

⁷¹ This is not explicitly stated in the law but is deduced from Articles 12, 13 and 15 of CPA ([Закон за закрила на детето](#)) 2000.

⁷² See Article 208 of CPC ([Наказателно-процесуален кодекс](#)) 2006 in support of this finding: "Legal reasons to initiate investigation shall be: 1. information to the bodies of pre-trial procedure about a committed crime".

⁷³ Article 69 of the Regulation for implementation of Child Protection Act (RICPA) ([Правилник за приложение на Закона за закрила на детето](#)) 2003. This rule was implemented in 2009.

direct the call to the competent bodies⁷⁴ which, in case of crimes, is the police. When there is no evidence that a crime is committed the personnel have to direct the call to the CSD or NGOs which work in the area of children's rights. The personnel should find the best way to help to the child in need of help.

Additionally, anyone who learns that a child is in danger must inform the Directorate of 'Social Assistance' (DSA) at the State Agency for Child Protection (SACP) or the Ministry of Internal Affairs even if he/she became aware of this during the exercise of his/her professional activities and is bound by professional secrecy⁷⁵. If the incident is reported to the wrong institution, the latter has to transmit it immediately to the right one⁷⁶.

The CPR has an obligation to look for child victims of crimes and to report to the Prosecutor, especially if the children are victims of crimes committed by their parents⁷⁷.

2.1.2 Provision of information

There are no rules requiring the police to inform children of their rights when they report crimes to them. There are also no documents providing that the court and the police must provide information in a child-friendly manner and in a language that children understand taking into account their age and maturity. In 2012 the Chief Prosecutor of Bulgaria started a consultation⁷⁸ between prosecutors and investigating bodies for the establishment and implementation of rules aimed at ensuring child-friendly justice. However, before hearing the child, the court should ensure that the necessary information is provided to him/her to help him/her form his/her opinions and to understand the possible consequences of his/her wishes or testimony and of the decisions of the court⁷⁹.

The court informs the child about the hearing through his/her parents or with their consent⁸⁰. Such information is provided via subpoenas which must contain the following information⁸¹;

- The name of authority that sends the summons;
- The file number of the case and the year in which it was initiated;
- The role of the person to whom the subpoena is addressed;
- The authority before which he/she must appear;
- Information about the right to use legal assistance;
- The procedural activities that the person must take part in.

The court informs the child victim with the first subpoena⁸² of his/her right to take part in the proceedings as a private accuser and/or a civil claimant⁸³. The child can apply to acquire the status of private accuser/civil claimant up to the initiation of the court proceedings⁸⁴. The judge has an obligation to ensure that the child victim can review the case file and make

⁷⁴ Article 69 of RICPA ([Правилник за приложение на Закона за закрила на детето](#)) 2003. This rule was implemented in 2009.

⁷⁵ Article 7 paras. 1 and 2 of CPA ([Закон за закрила на детето](#)) 2006.

⁷⁶ Article 7 para. 4 of CPA ([Закон за закрила на детето](#)) 2006.

⁷⁷ Article 27 of CAMBAA ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#)).

⁷⁸ The work started together with a NGO. Special rules for those working with children victims of crimes were provided by the NGO, but they are not accepted yet as official rules.

⁷⁹ Article 15 para. 3 of CPA ([Закон за закрила на детето](#)) 2000.

⁸⁰ Article 255 para.1 and Article 257 of CPC ([Наказателно-процесуален кодекс](#)) 2006. It is not necessary for the court to ask the parents' permission to hear the child but he/she is subpoenaed through them.

⁸¹ Article 179 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁸² Article 179 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁸³ Article 255 para. 2 and Article 257 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁸⁴ Article 77 para. 3 and Article 85, para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

notes and copies of the documents needed to support his/her claim⁸⁵. As there are no specific rules related to a child victim's participation in the proceedings, the general rules are applicable, i.e., a child below 14 years of age can act only through his/her parents/guardians while a child of 14 years of age or above can act alone but with his/her parents'/guardians' consent.

The Ministry of Internal Affairs' authorities and organisations for the support of victims will inform the victim about how to proceed in order to receive financial compensation from the State⁸⁶. If the victims are foreign citizens who have been victims of a crime in the territory of Bulgaria or if they are Bulgarian citizens who have been victims of a crime abroad these authorities and organizations will also provide information concerning the support which they can receive⁸⁷. This information will be provided orally or in writing in a language that the child victim understands⁸⁸. The National Council for the Support and Compensation of Victims⁸⁹ issues and distributes a brochure which contains updated information about the rights of child and adult victims⁹⁰. The Council distributes this brochure to hospitals, social services and all facilities which come into contact with the victims⁹¹. The relevant information is also published in a special website⁹². A special telephone line for informing the victims has also been set in place⁹³.

2.1.3 Protection from harm and protection of private and family life

Urgent police protection

Protection of children in emergency cases falls within the competence of the Ministry of Internal Affairs and its structures⁹⁴. Emergency cases are considered as instances where the child was the victim of a crime or where there was an immediate danger for his/her health or life or where the child is involved in a crime⁹⁵.

Emergency protection measures can take several forms as follows:

- Placement of the child in special rooms, usually in the police offices where the authorities can prevent him/her from coming into contact with persons who may have a negative influence or who may harm the child⁹⁶;
- Placement in special institutions or social services and, if there is a need, protection by a permanent bodyguard⁹⁷;

⁸⁵ Article 257 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

⁸⁶ *ibid.*

⁸⁷ *ibid.*

⁸⁸ Article 6 para. 2 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

⁸⁹ Article 7 para. 1 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

⁹⁰ Article 7 para. 1(1) of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007. The brochure is available in Bulgarian, English, German and French.

⁹¹ Article 7 para. 1(2) of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

⁹² Article 7 para. 2 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

⁹³ It is established on the ground of Article 7 para. 3 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

⁹⁴ Articles 37 and 38 of CPA ([Закон за закрила на детето](#)) 2000.

⁹⁵ Article 38 para 1 of CPA ([Закон за закрила на детето](#)) 2000. It should be noted that the same protection is provided when the child is lost or in a helpless situation or he/she is without supervision from an adult (Article 38 p.2 and 3 of CPA ([Закон за закрила на детето](#)) 2000.

⁹⁶ Article 39 para. 1(1) of CPA ([Закон за закрила на детето](#)) 2000.

⁹⁷ Article 9 of CPA ([Закон за закрила на детето](#)) 2000.

- Return of the child to his/her parents or persons who care for him/.her.⁹⁸

Urgent police protection can be provided for up to 48 hours⁹⁹.

Civil law orders for protection

Child victims of domestic violence can be protected under the Domestic Violence Protection Act 2005 (DVPA) ([Закон за защита от домашно насилуе](#)). In most cases, domestic violence is not a crime under Bulgarian law, but civil justice is widely used for the protection of the child from more severe abuse. It may also be used in cases of sexual abuse from a family member, although the procedure under the law does not exclude criminal prosecution¹⁰⁰. Thus, in these cases the civil court must issue a civil law order for the protection of the child victim¹⁰¹.

Civil law orders of protection usually prohibit the abuser from abusing the child victim and/or approaching the child or his/her residence, school or other place of activity¹⁰². In more severe cases the court can decide to remove the abuser from the child victim's residence¹⁰³.

Children above 14 years of age may seek protection from domestic violence on their own¹⁰⁴. Younger children obtain this protection with the intervention of the parent who is not the offender¹⁰⁵. If there is a conflict of interests between the child and his/her parents the Director of the CSD and the child's close relatives may start the proceedings on his/her behalf¹⁰⁶.

Special protection for victims of trafficking

The Combating Human Trafficking Act 2003 (CHTA) ([Закон за борба срещу трафика на хора](#)) provides special protection for adult and child victims of human trafficking. Some of the rules are of general application and thus apply to both adults and children without difference, e.g., concerning the special asylums and centres for the protection of victims of trafficking. Child victims (like adult victims) who are willing to support the investigation have the right to use these asylums for a longer period of time than others¹⁰⁷. To be better protected children must be placed in separate rooms from adults¹⁰⁸. When the authorities find a child who is the victim of trafficking they must inform the CSD immediately¹⁰⁹.

Protection of the child victim when he/she is a witness

Usually, child victims take part in the court proceedings as witnesses with special protection provided in this stage of the proceedings.

⁹⁸ Article 39 para. 1(3) of CPA ([Закон за закрила на детето](#)) 2000.

⁹⁹ Article 41 of CPA ([Закон за закрила на детето](#)) 2000. When this emergency protection expires, the authority must apply another form of protection such as placement in special institution or shelter, placement in the family of relatives and, in very rare cases, appointment of a guardian.

¹⁰⁰ Article 1 para. 1 of DVPA ([Закон за защита от домашно насилуе](#)) 2005. For example, sexual abuse of a child from a family member is always a crime according to PC.

¹⁰¹ Article 7 of DVPA ([Закон за защита от домашно насилуе](#)) 2005.

¹⁰² Article 5 para. 1(3) of DVPA ([Закон за защита от домашно насилуе](#)) 2005.

¹⁰³ Article 5 para. 1(2) of DVPA ([Закон за защита от домашно насилуе](#)) 2005.

¹⁰⁴ Article 8 para. 1 of DVPA ([Закон за защита от домашно насилуе](#)) 2005

¹⁰⁵ Article 8 para. 3 of DVPA ([Закон за защита от домашно насилуе](#)) 2005.

¹⁰⁶ Article 8 para. 3 and Article 8 para. 4 of DVPA ([Закон за защита от домашно насилуе](#)) 2005.

¹⁰⁷ Article 25 of CHTA ([Закон за борба срещу трафика на хора](#)) 2003. Note that it is the CSD which must start the procedure to protect a child at risk.

¹⁰⁸ Article 22 of CHTA ([Закон за борба срещу трафика на хора](#)) 2003.

¹⁰⁹ Article 21 of CHTA ([Закон за борба срещу трафика на хора](#)) 2003.

The prosecutor or the judge can take special measures for the protection of the witness (whether he/she is an adult or a child) when there is sufficient evidence that there is a real risk for his/her life and/or health or for the life and health of his/her relatives¹¹⁰.

These protective measures are temporary and can include:

- The provision of a personal bodyguard to protect the child victim/witness¹¹¹;
- Keeping confidential the witness' identity¹¹².

The prosecutor or the judge can also suggest that the child witness be included in a special protection programme¹¹³.

Child victims and witnesses should also be supported by child protection authorities¹¹⁴. However, the pedagogue and the psychologist from the Police Department supporting a child during his/her testimony are not obliged to provide any additional support outside the judicial proceedings. On the other hand, investigating authorities or the judges are not obliged to inform social workers from the CSD about cases where child victims or child witnesses are involved. The CSD learns about child victims only if a parent decides to inform the Department or if the child or if he/she requests support from an NGO.

Several NGOs, upon receipt of a special written request from the CPD, provide services to child victims including:

- Support for the child before, during and after the court hearing;
- Psychological support;
- Shelter.

It is worth noting that no provisions related to specific interview methods used for child victims have been identified in the reviewed legislation.

Protection of Private and Family life

During criminal proceedings the court can decide to hear the child victim in the presence of only those persons who are directly involved in the case (non-public hearing)¹¹⁵. The Radio and Television Act (RTA) 1999 ([Закон за радиото и телевизията](#)) prohibits the disclosure of information about the private lives of citizens (adults and children) without their consent¹¹⁶. If an audio-visual service provider violates this rule the victim may ask for an apology and compensation for damages. The Commission for the protection of personal data can also be informed and if there is a violation of the relevant legislation it shall impose a penalty¹¹⁷.

CPA ([Закон за закрила на детето](#)) 2000 also contains rules for protection of the child's personal and family life. Information about children can be revealed publicly only with the

¹¹⁰ Article 123 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹¹¹ Article 123 para. 2(1) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹¹² Article 123 para. 2(2) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹¹³ This form of protection is possible under the Law for Protection of Persons in Jeopardy Related to the Criminal Proceeding (LPPJRCF) 2005 ([Закон за защита на лица, застрашени във връзка с наказателно производство](#)).

¹¹⁴ According to the CPA ([Закон за закрила на детето](#)) 2000, Additional Rules, para. 1 p, 11(b), every child is a child at risk (and he/she is protected by CPA 2000) 'if he/she is a victim of abuse, violation, exploitation or other inhuman or degrading treatment or punishment in or out of his/her family'. This means that every child who is a victim of a crime is a child at risk under CPA ([Закон за закрила на детето](#)) 2000.

¹¹⁵ Article 263 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹¹⁶ Article 16 Para. 1 of RTA ([Закон за радиото и телевизията](#)) 1999. Point 2.4.4 of the Journalists' Code of Ethics ([Етичен кодекс на българските медици](#)) prohibits disclosure of the identity of a child victim. Note however that the Journalists' Code of Ethics is not legally binding.

¹¹⁷ Article 1 para. 5 of PDPA ([Закон за защита на личните данни](#)) 2002 which explicitly provides that the provisions of this law are applicable in criminal proceedings.

consent of their parents/guardians¹¹⁸. If the child is above 14 years of age it is necessary to obtain the child's consent too¹¹⁹. At the same time, it is strictly prohibited to publish any information about children under protection¹²⁰. In these cases only the authority who adopted the measure can give permission for its disclosure¹²¹.

2.1.4 Protection from secondary victimisation and ensuring a child-friendly environment

In principle, the criminal legislation aims at ensuring the quality of the evidence obtained by the investigating authorities without considering the child's welfare. Therefore, in Bulgaria only a few mechanisms exist for the protection of children from secondary victimisation.

No rules have been identified about the conditions under which a child victim shall be examined/testify and the place of the examination. However, the Bulgarian legislator has introduced a rule which aims at preventing the examination of a child victim (or witness) under 14 years of age more than once in criminal proceedings¹²². As discussed in [Section 2.1.3](#), however, this is possible only if the child victim testifies in the pre-trial stage in the presence of a judge.

In most cases, at the pre-trial stage, child victims are examined in the office of the investigating police officer or in so called 'blue rooms', i.e. facilities provided by NGOs¹²³. Blue rooms are divided by a mirror wall: on the one side of the wall are the child and a specially prepared expert to lead the child's examination, while on the other side, invisible for the child, are the prosecutor and/or the judge, the perpetrator(s), lawyers and anybody who is involved in the proceedings¹²⁴. The child victim is usually examined in a small room in the presence of other persons who are not necessarily involved in the case (other colleagues of the police officers or even other witnesses). However, a psychologist or pedagogue must be present when a child victim below the age of 14 testifies; if the child victim is 14 years of age or above the presence of psychologists or pedagogues is at the discretion of the investigating official or the court. These experts try to relax the child and help him/her understand the questions posed if this is needed. Often, the psychologist/pedagogue who is present at these examinations works at the Police Department.

In some cities, special agreements for the use of 'blue rooms' for children have been concluded between police offices, the court and the prosecutor offices. Usually, at trial, child victims testify in regular court rooms but the previous testimony given in the special blue rooms may replace the testimony in the court room. Examination here is less stressful for the child, who otherwise has to testify in the usual court room in the presence of the offender.

CPC ([Наказателно-процесуален кодекс](#)) 2006 provides that all criminal proceedings must take place without undue delay¹²⁵.

Bulgarian criminal justice is not retributive. Therefore, CPC ([Наказателно-процесуален кодекс](#)) 2006 provides for the possibility to dispense with the criminal procedure if an

¹¹⁸ Article 11a para. 1 of CPA ([Закон за закрила на детето](#)) 2000 contains a general prohibition on the dissemination of information concerning children.

¹¹⁹ Article 11a para. 3 of CPA ([Закон за закрила на детето](#)) 2000.

¹²⁰ Article 11a para. 2 of CPA ([Закон за закрила на детето](#)) 2000.

¹²¹ *ibid.*

¹²² Article 280 para. 6 CPC ([Наказателно-процесуален кодекс](#)) 2006. Note however that there are several exceptions to this rule. Article 281 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006 provides that testimony must be given before the judge. Article 281 para. 6 of CPC ([Наказателно-процесуален кодекс](#)) 2006 provides that the accused must agree to having the record of his examination read.

¹²³ Information obtained through an interview with the BHC.

¹²⁴ Information obtained through an interview with the BHC. See Article 139 para. 8 CPC ([Наказателно-процесуален кодекс](#)) according to which witnesses who live in Bulgaria can testify via audio-visual means. Before 2010, this it was possible only for witnesses who lived abroad (Article 139 para. 7 CPC ([Наказателно-процесуален кодекс](#)) 2006).

¹²⁵ Article 22 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

agreement between the offender and prosecutor is achieved¹²⁶. This agreement is possible only if the crime is not severe and/or had caused death and all damages were compensated.¹²⁷ As there are no specific requirements related to child victims, the general rules apply. This means that parents/guardians of child victims under 14 years of age must agree to dispense with the prosecution, while child victims of 14 years of age and above can make such a decision as long as their parents give their consent. At the pre-trial stage there is no requirement according to which the agreement must be approved with the consent of the victims. On the contrary, at trial proceedings the agreement must be approved with the consent of all the parties.¹²⁸

2.1.5 Protecting the child during interviews and when giving testimony

As discussed in [Section 2.1.4](#), the Bulgarian legislator has introduced certain measures to ensure protection of child victims during interviews and when giving testimony.

Prosecutors are not obliged to use specific evidence or to call any particular person as a witness during trial. Where parents object to having their children testify, the police and the court shall consider their objections but are not obliged to act on the basis of them. The child also has the right to refuse to give evidence (while adult victims/witnesses do not have the right to refuse to provide evidence except if this will affect their closest relatives)¹²⁹. The authority conducting the interview must explain to a witness under 14 years of age the necessity to give true testimony, without warning him/her of criminal liability. Therefore, children under 14 years unlike the adults and children 14 years and over, do not bear criminal responsibility for perjury¹³⁰.

Every person who has been the victim of a crime or witness to a crime can be asked by the investigating authority or the court to provide evidence regardless of his/her age. Note however that the authority or the court shall request an assessment of the person's ability to understand the questions and to give answers if there is a doubt about this ability¹³¹. The investigating authority or the judge always starts the examination of the child under 14 years of age by briefly explaining the necessity to speak the truth, without however warning him about his/her potential criminal responsibility if he/she lies¹³². If child (as adult) victims do not understand the official language (Bulgarian) the court, prosecutor or investigation body is obliged to appoint a translator for them¹³³.

In some (unspecified) cases the interview can be recorded via audio-visual means in which case it can be displayed at trial.¹³⁴ In any case, the investigating official has the obligation to always record in writing all testimony which the court may decide to read aloud during the proceedings. In this way the court can avoid subsequent examination of the child victim.

¹²⁶ Article 381 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹²⁷ Article 381 para. 2 and para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006 "Agreement shall not be admitted for serious malicious crimes under Chapter One, Chapter Two, Sections I and VIII, Chapter Eight, Section IV, Chapter Eleven, Section V, Chapter Twelve, Chapter Thirteen, Section VI and VII and under Chapter Fourteen of the Special Part of the Penal Code. Such an agreement shall not be allowed for any other crimes which have caused death."

¹²⁸ Article 383 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹²⁹ Article 120 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹³⁰ Article 140 para. 4 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹³¹ Article 144 para. 2(5) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹³² Article 140 para. 4 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹³³ Article 21 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹³⁴ Article 140 para. 5 of CPC ([Наказателно-процесуален кодекс](#)) 2006; Articles 237-239 of CPC ([Наказателно-процесуален кодекс](#)) 2006. For example Article 238 of CPC ([Наказателно-процесуален кодекс](#)) 2006 states: "On the request of the interrogated person or on the initiative of the body of investigation audio-record may be made, for which the interrogated person shall be informed of before the start of the interrogation. This provision shall apply to videotaping accordingly."

However, this is possible only for children under 14 years of age and if the testimony before the investigating authority was given in the presence of a judge¹³⁵.

With respect to child victims, professionals dealing with them must safeguard their best interests considering their wishes and feelings, physical, psychological and emotional needs, age, sex and other relevant characteristics, existing or potential dangers, the parents' ability to take care of them as well as the consequences of any changes in their environment¹³⁶. A child's best interests must be considered in all proceedings, including criminal ones. Therefore, CPC (*Наказателно-процесуален кодекс*) 2006 does not require any further measures to be taken for the application of this principle. There are no specific rules which ensure that a child victim is treated with dignity and respect¹³⁷.

2.1.6 Right to be heard and to participate in criminal proceedings

Child victims (like adults) have the right to take part in criminal proceedings as private accusers and/or civil claimants¹³⁸. However, child victims cannot exercise these rights themselves; they do so either through their parents/guardians (for children below 14 years of age) or with their consent (for children 14 years of age and above). If there is a conflict between the rights of the child victim and his/her legal representative the court has to appoint a special representative (lawyer) to protect the child's interests. Child victims who become civil claimants or private accusers have various rights, including the right to take part in the proceedings, make notes, have access to the court file and other rights related to his/her civil claim or/ and to the accusation¹³⁹ including the right to appeal every court act. Usually, these rights are exercised through the parents.

The prosecutor also has the right to act on behalf of a child; this however happens exceptionally and is at the prosecutor's discretion. Note that prosecutors are not obliged to use evidence or to call any particular person as a witness during the trial based on his/her understanding of the need of this evidence. Equally, where a parent does not consent to a child giving evidence, the police and the court will take these views into account but are not obliged to follow them. The child also has the right to refuse to give evidence (while adult victims do not have the right to refuse providing evidence except if this will affect their closest relatives).¹⁴⁰ The CA conducting the interview must explain to a child witness under 14 years of age the necessity to give a truthful testimony, without warning him/her of criminal liability. Therefore, children under 14 years unlike the adults and children of 14 years and above do not bear criminal responsibility for perjury.¹⁴¹

2.1.7 Right to legal counsel, legal assistance and representation

Child victims (like adults) who have become civil claimants and/or private accusers in the criminal proceedings have the right to have legal counsel¹⁴². If the victim does not have enough money to pay for a lawyer, but he/she wants to have legal protection the court has an obligation to appoint him/her a counsel¹⁴³. The same rule applies when the family of a child victim does not have enough resources to provide a lawyer.

¹³⁵ Articles 223 and Article 281 para.1(6) of CPC (*Наказателно-процесуален кодекс*) 2006.

¹³⁶ Paragraph 1 p. 5 of the Additional Rules, CPA (*Закон за закрила на детето*) 2000.

¹³⁷ Chapter thirty of CPC (*Наказателно-процесуален кодекс*) 2006 "Special rules for trying cases of crimes perpetrated by minors" (Articles 385-395) relates only to child perpetrators.

¹³⁸ Article 84 of CPC (*Наказателно-процесуален кодекс*) 2006.

¹³⁹ Article 87 of CPC (*Наказателно-процесуален кодекс*) 2006 on the rights of the civil claimant and Article 79 on the rights of the private accuser.

¹⁴⁰ Article 120 of CPC (*Наказателно-процесуален кодекс*) 2006. The law does not provide definition for 'close relatives'. Court practice considered as 'close relatives' the parents, siblings and grand-parents.

¹⁴¹ Article 140, para. 4 of CPC (*Наказателно-процесуален кодекс*) 2006.

¹⁴² Article 1 para. 1 of CPC (*Наказателно-процесуален кодекс*) 2006.

¹⁴³ Article 100 para. 2 of CPC (*Наказателно-процесуален кодекс*) 2006.

Child victims under 14 years do not have the right to choose his/her own representative and legal counsel. Parents/guardians make this choice according to the general rules concerning the representation of children. If the child is 14 years of age and above, he/she may choose the legal counsel with the consent of the parents. In cases of a conflict of interests between a child and his/her parents/guardians, the authority has the obligation to appoint a special representative (lawyer) and provide legal aid¹⁴⁴. The authority must send its decision on legal aid to the competent Bar Association. The Chair of the competent Bar Association must appoint a lawyer who will protect the child's rights¹⁴⁵. Children, like adults have the right to ask the court for appointment of a specific attorney. The court must inform the Bar of this preference and if there is a possibility the Bar ensures that this specific lawyer is appointed as the child's legal counsel¹⁴⁶. However, the Bar Association is not legally obliged to appoint a lawyer specialised and trained to work with children.

2.1.8 Remedies or compensation exist for violation of rights and failure to act

Child victims (like adults) have the right to participate in court proceedings as civil claimants by submitting the relevant claim. This claim must be submitted no later than the commencement of the hearing at the court¹⁴⁷. However the court may refuse to accept it even if it is submitted on time¹⁴⁸. Child victims may also choose to lodge the claim for compensation before the civil court. Even though evidence with respect to the civil claim should be collected during criminal proceedings, the civil court will hear the civil claim only if the accused was found guilty.

Thus, child victims can request compensation in one of the following ways:

- The child victim can seek compensation directly before the civil courts. In this case the victim has to wait until the criminal court issues its judgment and any compensation will be awarded only if the criminal court finds the defendant guilty. The civil court is only competent to decide on the amount of the compensation. Note that the time limit for seeking compensation before the civil court is five years from the moment the crime was committed¹⁴⁹.
- If the criminal court rejects the civil claim, the child victim can still seek compensation before the civil courts. The procedure followed in this case is the same as in the previous one. If the child victim decides to lodge the civil complaint at the criminal proceeding, he/she must be very mindful of the time limit. If the pre-trial stage is long and the criminal judge refused to accept the civil claim, the victim loses the possibility to ask for compensation before the Civil Court if five years have elapsed since the date the crime was committed. This means that the child victim must prepare both a civil complaint for the criminal proceedings and, if there is a risk that the time limit may lapse, a claim for the civil court. The civil court can issue its decision only after the criminal court issues a sentence within the five years from the commission of the offence.
- If the court ceases criminal proceedings, compensation will be awarded only if the civil court finds that the defendant committed the crime (even if the alleged offender is not sentenced in criminal proceedings)¹⁵⁰.

Note that children may exercise their right to compensation through their parents/guardians (with respect to children below 14 years of age) or on their own with their parents' consent (with respect to children 14 years of age and above).

¹⁴⁴ Article 25 para. 1 of Legal Aid Act (LAA) ([Закон за правната помощ](#)) 2006.

¹⁴⁵ Article 25 para. 4 of LAA ([Закон за правната помощ](#)) 2006.

¹⁴⁶ Article 25 para. 5 of LAA ([Закон за правната помощ](#)) 2006.

¹⁴⁷ Article 85 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁴⁸ Article 88 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006. If the judge considers that the collection of evidence related to the civil claim will require too much time and efforts he/she may decide not to accept it in the criminal proceeding.

¹⁴⁹ Article 110 of Obligation and Contracts Act (OCA) ([Закон за задълженията и договорите](#)) 1950.

¹⁵⁰ Article 88 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

Child victims have the right to appeal decisions of the prosecutors and judges which affect their rights. Once again, children below 14 years of age can exercise this right through their parents/guardians, whereas children 14 years of age and above may bring an appeal on their own as long as they have their parents' consent.

In Bulgaria, child and adult victims may seek compensation either from the offender or in certain circumstances from the State. The right to receive compensation from the State is regulated by the Support and Financial Compensation of Victims of Crimes Act (SFCVCA) 2007 ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)). This law provides rules for the support and compensation of child victims of severe crimes such as terrorism, intentional homicide, intentional severe bodily injury, sexual abuse, severe health injury, human trafficking, criminal organisation or other severe intentional crimes that cause death or severe bodily injury¹⁵¹. This compensation can also be received by anyone who sustains material injuries¹⁵².

Financial compensation is only one of the forms of compensation child and adult victims may receive¹⁵³. Compensation is awarded after the decision finding the offender guilty is executed¹⁵⁴ or after the court or the prosecutor decides to cease criminal proceedings¹⁵⁵. Compensation can be between 250 BGN (€125) and 5000 BGN (€2500)¹⁵⁶. In cases of severe intentional crimes the victim can receive compensation up to 10 000 BGN (€ 5000)¹⁵⁷.

The complaint for the compensation under the SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007 is lodged with the National Council for assistance and compensation for crime victims¹⁵⁸ and should contain information about the victim, the circumstances of the crime, who and when was informed about the crime, and reasons for compensation¹⁵⁹. The time limit for asking for such compensation is two months after the sentence is executed¹⁶⁰.

As noted above, no specific rules exist for children, though the compensation process takes place within criminal proceedings, which means that children will receive the same care as all vulnerable victims. As in any other case, the right of the child to compensation will be exercised by a parent or guardian (for children below 14 years of age) or by the child with the parent's or guardian's consent (for children 14 years of age and above).

¹⁵¹ Article 3 para. 3 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵² Article 3 para. 1 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵³ Article 8 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵⁴ Article 12 para. 1 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵⁵ Article 12 paras 2 and 3 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵⁶ Article 13 para. 1 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵⁷ Article 13 para. 2 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁵⁸ For further information see the '[Exercise your Rights](#)' pamphlet.

¹⁵⁹ Article 18 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

¹⁶⁰ Article 18 para. 3 of SFCVCA ([Закон за подпомагане и финансова компенсация на жертви на престъпления](#)) 2007.

2.2 The child as a witness

2.2.1 Reporting a crime

In general the provisions applicable to child victims are also applicable to child witnesses; thus, please see [Section 2.1.1](#).

2.2.2 Provision of information

No specific legal requirements for the provision of information to child witnesses who are not also child victims have been identified. Therefore, please see [Section 2.1.2](#) insofar as its provisions would be applicable to child victims who are also witnesses.

2.2.3 Protection from harm and protection of private and family life

Please see [Section 2.1.3](#) as no specific provisions have been identified for the protection from harm and the protection of private and family life of child witnesses who are not also victims.

2.2.4 Minimising the burden of proceedings and ensuring a child-friendly environment

With respect to the minimisation of the burden of proceedings and the need to ensure a child-friendly environment, no specific rules have been identified for child witnesses who are not also victims.

It should be noted that while the law provides that child victims can testify in private, such a possibility is not offered to child witnesses who are not also victims of the crime¹⁶¹.

Examination of child victims and witnesses more than once should be avoided and a second interview should be considered only if their testimony cannot be read out¹⁶². Therefore, children who are over 14 years of age can be examined more than once only if the testimony they have already given cannot be read in the court. A child's testimony shall be read during the trial if:

- the witness is a child and his/her hearing was held in the presence of the accused and his/her defendant¹⁶³;
- there is a substantive contradiction between the testimony given at the pre-trial stage and at the trial stage¹⁶⁴;
- the witness refuses to testify or insists that he/she forgot everything related to the crime¹⁶⁵;
- there are objective obstacles for the witness to go to the court¹⁶⁶;
- the witness cannot be found or he/she has died¹⁶⁷;
- the witness is not present during the court hearing and the parties agree to read the record of his/her testimony¹⁶⁸.

¹⁶¹ Article 263 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006. Even in this case the child victim has to speak in the presence of the offender. Special rules related to the testimony of the child witnesses are found in Article 140 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁶² Article 280 para. 6 of CPC ([Наказателно-процесуален кодекс](#)) 2006. According to the study issued by the Institute for Social Activities and Practices (ISAP) and the Judge's Union (JU) '[Report for research about the system of criminal justice related to the children's hearings as victims or witnesses of a crime](#)' child witnesses who are the victim of a crime are heard 3-6 times during the criminal proceedings.

¹⁶³ Article 280 para. 6 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁶⁴ Article 281 para. 1(1) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁶⁵ Article 281 para. 1(2) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁶⁶ Article 281 para. 1(3) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁶⁷ Article 281 para. 1(4) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

It is worth highlighting that while the first rule (a) is directly related to child witnesses, the rest are applicable to both children and adults. In any case the record of the child's testimony can be used only if it was given in the presence of the accused person and his/her lawyer¹⁶⁹ and before a judge¹⁷⁰. The hearing before the judge is a stage of the pre-trial criminal proceedings which allows the use of the evidence obtained in subsequent stages of criminal proceedings¹⁷¹. However, the investigating authority is not obliged to follow this procedure. The decision to hold a hearing before a judge should be taken by the investigating authority or the prosecutor who supervises the investigation in the pre-trial stage if there is a risk that the witness will be unable to be present in the judicial stage because of some objective reasons (e.g., illness, absence from the country)¹⁷². The investigating body or the prosecutor may also decide to use this procedure when the respective testimony is extremely important for the criminal proceeding¹⁷³. If the investigating authority has not availed itself of these legal possibilities to ensure that the testimony can be read at trial, the judge can still use it under certain circumstances¹⁷⁴, but he/she cannot impose the sentence only on the basis of that testimony¹⁷⁵. According to the law, interviews of a child witness may also take place, if relevant, by videoconference¹⁷⁶. Currently, the Prosecutor's Office is preparing special rules concerning interview of children.

The child witness of a crime can be involved in other procedures for collection of evidence especially at the pre-trial stage. For example, he/she could take part in procedures for identification of persons or objects. However, there are no special rules for the child's participation in these procedures.¹⁷⁷

2.2.5 Protecting the child during interviews and when giving testimony

Please see [Section 2.1.5](#).

2.2.6 Right to be heard and to participate in criminal proceedings

The child witness who is not a direct victim of the crime is not an active party to criminal proceedings. With respect to their right to be heard please see [Section 2.1.6](#).

2.2.7 Right to legal counsel, legal assistance and representation

Every witness (whether a child or adult) has the right to request a legal consultation with a lawyer if he/she thinks that his/her testimony could put him in danger¹⁷⁸. There are no specific rules giving the child witness a right to choose legal counsel himself/herself. The general rule is applicable: the parent/guardian decides whether there is a need for legal counsel and chooses him/her in case of need. Special legal aid is not available for child witnesses.

2.2.8 Remedies or compensation for violation of rights and failure to act

Child witnesses do not have the right to compensation and no right to appeal any decisions if they are not the victims of the offence.

¹⁶⁸ Article 281 para. 1(5) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁶⁹ Article 281 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷⁰ Article 281 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷¹ Article 223 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷² Article 223 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷³ Article 223 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷⁴ Article 281 para. 4, of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷⁵ Article 281 para. 8, of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁷⁶ Article 140 para. 5 of PPC.

¹⁷⁷ *ibid.*

¹⁷⁸ Article 122 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

2.3 The child as a suspect/ defendant

2.3.1 Age of criminal responsibility

The national legal framework related to the age of the criminal responsibility in Bulgaria is provided in the Penal Code (PC) ([Наказателен кодекс](#)) 1968. There are no special courts for child suspects/defendants in Bulgaria.

Only persons who are above 18 years of age can generally be held criminally responsible if they understand the nature of the criminal act they commit¹⁷⁹. Children between 14 and 18 years of age can be held criminally responsible if they are able to understand the nature of their acts and are able to control their conduct¹⁸⁰. However, criminal law provides special rules for the criminal responsibility of child offenders¹⁸¹. Children below the age of 14 may not be held criminally responsible¹⁸²; when a child between 8 and 14 years of age commits a crime or another anti-social act the Local Commission for Combating Anti-social Behaviour of Minors and Adolescents will impose correction measures on him/her.

In Bulgaria there are no special courts for children; however, the composition of the court adjudicating the relevant cases is different to the courts which adjudicate cases against adults. If the court must be composed by a judge and two jurors, then the jurors must be teachers or educators¹⁸³.

Furthermore, special rules are envisaged regarding the sanctions which may be imposed upon children. Children may be subject to fewer sanctions than adults¹⁸⁴. Furthermore, there is a differentiation between the penalties which may be imposed on children aged 14 to 16 and those aged 16 to 18. For a more detailed presentation of the sanctions that can be imposed upon children, please see [Section 3.1.2](#).

2.3.2 Provision of information

Once indicted, the accused child has the same rights as any adult in criminal proceedings. He/she has the right to be informed about what crime he/she is accused of and based on what evidence¹⁸⁵. He/she has the right to access the criminal case file and all materials in it¹⁸⁶. He/she also has the right to be informed in advance of the court hearing. The court, the prosecutor and investigating authorities have an obligation to provide this information to the accused child or adult¹⁸⁷. However, if the accused is a child, the participation of a defence lawyer is obligatory¹⁸⁸.

There are no special rules regarding the way the accused child must be provided with such information. Therefore, the relevant authorities should follow the general rules according to which children have the right to participate in all aspects of the social life, unless there is a more specific provision. The information should be provided in the presence of the parents or guardians and the subpoena should be delivered to the child and his/her parents.

¹⁷⁹ Article 31 para. 1 of PC ([Наказателен кодекс](#)) 1968. The provision uses the notion '*compos mendis*' to describe the ability to understand the act and its consequences.

¹⁸⁰ Article 31 para. 2 of PC ([Наказателен кодекс](#)) 1968.

¹⁸¹ Article 31 para. 4 of PC ([Наказателен кодекс](#)) 1968. These special rules are described in PC ([Наказателен кодекс](#)) 1968 and CPC ([Наказателно-процесуален кодекс](#)) 2000.

¹⁸² Where a child under the minimum age of criminal responsibility commits an act that would otherwise be considered a criminal offence, the matter is not dealt with in criminal proceedings. Further information on how such children is dealt with in any other judicial proceedings are provided in the Civil and Administrative reports as appropriate.

¹⁸³ Article 390 para. 1 and para. 2 of CPC 2006.

¹⁸⁴ Article 63 of PC 1968.

¹⁸⁵ Article 55 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁸⁶ *ibid*.

¹⁸⁷ Article 153 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁸⁸ Article 94 para. 1(1) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

Subpoenas must contain the information noted in [Section 2.1.2](#). The parents must be informed about the accusation and evidence against their child as well as the completion of the pre-trial stage of the proceedings¹⁸⁹. Their presence is not obligatory when the child suspect is examined – it depends on their own will¹⁹⁰. Thus, in criminal proceedings, parents or the guardians of the accused child must be informed of all aspects of the proceedings but their participation is not a condition for the validity of the acts of the prosecutor, the investigating authority or the court¹⁹¹.

2.3.3 Immediate actions following first contact with police or other relevant authority

As mentioned in [Section 2.3.2](#), parents can but are not obliged to be present when their child is being examined. In the case of detention, the respective body must notify immediately the person named by the detained person¹⁹². As a general rule, from the moment of detention, the person has the right to a defence counsel¹⁹³. No information on whether there are any legal time limits to arrest a child has been identified.

2.3.4 Conditions for pre-trial detention/custody

In Bulgaria there are two stages in the pre-trial phase of criminal proceedings.¹⁹⁴ During the first stage, similar to adults, the child suspect is not yet indicted and can be interviewed by the investigating authority and held in a detention facility by the police for up to 24 hours¹⁹⁵ or for up to 72 hours after the prosecutor decides. The detention in custody of children must only occur in exceptional cases¹⁹⁶. In the second stage, if there is sufficient evidence of a crime, the investigating authority is obliged to detain the accused child if considered necessary.

With respect to children over 14, the following measures can be ordered by the investigating authority:

- Supervision of the accused child by his/her parent(s) or guardian(s)¹⁹⁷;
- Supervision of the accused child by the administration of the correctional educational institution where the child has been placed¹⁹⁸;

¹⁸⁹ Article 389 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006. See also Article 219 CPC ([Наказателно-процесуален кодекс](#)) 2006 on the general rules related to the provision of information to the accused concerning the accusation.

¹⁹⁰ Article 389 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁹¹ Article 392 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁹² Article 63 para. 6 Ministry of Interior Act.

¹⁹³ Article 63 para. 5 Ministry of Interior Act .

¹⁹⁴ According to Article 192 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006 the pre-trial procedure shall include 2 stages: investigation and actions of the prosecutor after the finalisation of the investigation. During the first stage the pre-trial procedure shall be instituted where there is a legal ground and sufficient data that an offence has been committed. Then when enough evidence against a person has been gathered, and there are no grounds for the discontinuation of the penal procedure, the investigating authority shall report to the prosecutor and the person accused of the crime shall be constituted as as defendant with a decree. It should be noted that detention in custody shall be taken when a grounded assumption that the defendant has committed a crime, which is punishable with imprisonment or other stricter punishment, has been made and the evidence on the case indicates that a real danger exists of the defendant absconding or committing another crime. During the second stage of pre-trial criminal proceedings the prosecutor may: discontinue the procedure, suspend it, propose the defendant to be relieved of criminal liability, propose an agreement on the outcome of the criminal case, or bring the defendant before court by submitting an act of indictment.

¹⁹⁵ Article 17 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁹⁶ Article 386 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

¹⁹⁷ Article 386 para. 1(1) of CPC ([Наказателно-процесуален кодекс](#)) 2006. This measure is very similar to correctional measure provided in Article 13 para. 4 of CAMBAA; however, in this case the measures aims not only at correcting the child's behavior but also at ensuring that he/she will take part in the criminal proceedings and that he/she will not commit another crime.

¹⁹⁸ Article 386 para. 1(2) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

- Supervision of the accused child by the administration of the correctional education school where child has been placed before the crime¹⁹⁹;
- Supervision of the accused child by the inspector of the Child Pedagogy Room or a member of the Local Commission for Combating with Anti-social Behaviour of Minors and Adolescents²⁰⁰;
- Detention²⁰¹.

Pre-trial detention for children accused of crimes should be used as an exceptional measure, only if there is no other way to ensure that the necessary evidence is collected. Nonetheless, a child may be held in pre-trial detention only as a measure of last resort²⁰². Child suspects must be detained separately from adults in rooms which are proper for their age²⁰³. The investigating authority must immediately inform the child's parents or the guardians and the director of his/her school about the detention. As in the case of adults, the period during which children can be detained varies. In case of severe crimes, the detention cannot last for more than one year. If the crime is severe, the defendant can be detained for one year and in most severe cases for two years. In all other cases, the pre-trial detention cannot be longer than two months²⁰⁴.

Accused persons, whether adults or children, and those under trial have the right to visits, to a telephone connection with relatives, close people, legal counsel and the guardian in a procedure, determined by the Chief Director of the Execution of Penalties Chief Directorate²⁰⁵.

2.3.5 Protection of private and family life

In cases involving child offenders the court is obliged to hold its hearings privately²⁰⁶. There is a general prohibition to disseminate information which is collected during the court proceedings²⁰⁷.

According to the principle of the presumption of innocence under Article 16 CPC, the defendant, whether adult or child, must be considered innocent until the conclusion of the criminal proceedings with an effective verdict establishing the contrary.

Courts have some discretionary powers to order the disclosure of information related to the proceedings of child offenders as, according to Article 13 CPC, Courts and the investigating bodies must, within the limits of their competence, be required to take all measures to ensure the detection of the objective truth. There are no other specific rules related to the protection of the child defendant's identity, private and family life.

2.3.6 Alternatives to judicial proceedings

If the child committed a crime which is not too dangerous due to aberration or thoughtlessness²⁰⁸ the prosecutor might decide to not start criminal proceedings. In that case, the prosecutor can inform the Commission for Combating Anti-social Behaviour of

¹⁹⁹ Article 386 para. 1(2) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰⁰ Article 386 para. 1(3) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰¹ Article 386 para. 1(4) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰² Article 386 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006 provides a number of alternatives to detention which must be pursued before detention is imposed according to Article 386 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰³ Article 386 para. 4 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰⁴ Article 63 para. 4 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰⁵ Article 256 Law on execution of penalties and detention.

²⁰⁶ Article 391 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁰⁷ Article 1 para. 5 of PDPA.

²⁰⁸ A child is considered to act out of thoughtlessness if he/she acted without serious intention to harm somebody or something, if he/she was influenced by an adult or acted because of his/her wish to prove his/her maturity.

Minors and Adolescents²⁰⁹ which can take measures which are not noted in the child's criminal record.

The court might also decide to impose upon the child educational measures²¹⁰. In these cases the court will either inform the Local Commission for Combating Anti-social Behaviour of Minors and Adolescents or will choose itself the correctional and educational measures under the Combating Anti-social Behaviour of Minors and Adolescents Act²¹¹.

There are two legally regulated procedures which are not *per se* alternatives to judicial proceedings, but are special forms of proceedings:

- a) The Brief court investigation in the procedure before the first instance court²¹²;
- b) Settlement of the case by agreement.

It should be emphasised that these procedures are applicable only with the consent of the defendant and there is no requirement for the consent of the parents of the defendant. The agreement according to Article 381 CPC must be made in writing and signed by the prosecutor and legal counsel. The defendant must sign the agreement, if he/she agrees with it, after he/she declares that he/ she waives the Court's jurisdiction with regard to the case by order of the general procedure. The contents of the final agreement must be entered in the Court records and signed by the prosecutor, the legal counsel and the defendant. The consent of the defendant during the Brief court investigation in the procedure before the first instance must also be written in the Court record.

2.3.7 Minimising the burden of proceedings and ensuring a child-friendly environment

During criminal proceedings the investigating officer, the prosecutor or the court should gather information about the personality of the accused child. It is important not only to collect information about the child's age and level of education but also about his/her personal life. The authorities must check whether the crime was conducted under the influence of an adult person²¹³.

The investigating officers who carry out the pre-trial proceedings customarily (but are not obliged to) have special training²¹⁴.

Concerning crimes committed by children, in order to minimise the burden of the proceedings the CPC ([Наказателно-процесуален кодекс](#)) 2006 provides for a special panel of judges and jurors. Even though there is no obligation for the judge to have any additional training and/or education, the jurors must be teachers or instructors²¹⁵.

The court may decide to invite inspectors from CPR during the hearings and/or invite persons from the accused child's school²¹⁶.

The parents or the guardians of the accused children must also be invited to take part in the court proceedings as they have the right to support the accused child, to request the collection of evidence and to ensure that the rights of their child are respected²¹⁷.

When the defendant is a child, the CPC ([Наказателно-процесуален кодекс](#)) 2006 prohibits the participation of a private accuser in criminal proceedings²¹⁸. This means that

²⁰⁹ Article 61 para. 3 of PC ([Наказателен кодекс](#))1968.

²¹⁰ Article 61 para. 1 of PC ([Наказателен кодекс](#)) 1968.

²¹¹ Article 61 para. 2 of PC ([Наказателен кодекс](#))1968.

²¹² Chapter 27, Article 369a-374 of CPC.

²¹³ Article 387 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²¹⁴ Article 385 of CPC ([Наказателно-процесуален кодекс](#)) 2006. The rule does not specify what kind of preparation they should have.

²¹⁵ Article 390 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²¹⁶ Article 391 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²¹⁷ Article 392 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²¹⁸ Article 392 para. 4 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

while in general the private accuser may continue criminal proceedings even if the prosecutor is of the opposite opinion, in cases against children the case can never be prolonged against the opinion of the public prosecutor.

During the hearing the judge may order that the child defendant be temporarily removed from the court room if the discussion may have a negative influence on him/her²¹⁹. Furthermore, the court, the prosecutor or the investigation authority may decide to invite a psychologist or a pedagogue to be present during the examination of the accused child²²⁰.

Criminal proceedings must be completed without undue delay²²¹. The criminal cases in which the accused (child or adult) is in detention must be heard before other cases²²². The pre-trial stage of the proceedings must be completed within two months²²³. However, it is possible to extend this period whenever necessary²²⁴ in order to collect more evidence or if the case is complicated. The decision for the extension is taken by the Chief of the prosecutor's office. The extension may be up to four months. If the pre-trial phase needs to be further extended, that decision must be taken by the Chief of the second instance prosecutor's office²²⁵.

2.3.8 Protecting the child during interviews and when giving testimony

Child suspects/defendants must always be represented by a lawyer²²⁶. The pre-trial investigation must be completed by a specially trained investigator who must ensure that the relevant evidence is collected in a manner which is as child-friendly as possible²²⁷. A pedagogue or a psychologist must take part in the pre-trial proceedings and/or in the court hearings to support the child defendant if the prosecutor/investigator (at the pre-trial stage) or the judge (at trial) considers this necessary²²⁸.

The prosecutor and the investigating body have the right (but not an obligation) to examine the child in the presence of a judge. In this way it can be ensured that the information gathered is admissible in court. Further, children who have been taken into custody can be questioned and asked to make a signed statement concerning their involvement in the crime. A lawyer must participate in such an examination²²⁹ and must sign the protocol of the examination²³⁰.

The court must consider the child's age, maturity, level of education and possible influence from adults²³¹.

Children have the right to be assisted by an interpreter or translator²³². No rules acknowledging the child's right to use assistance from friends or another person of trust who are not lawyer or parent/guardian have been identified.

²¹⁹ Article 393 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²⁰ Article 388 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²¹ Article 22 para. 1 and para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²² Article 22 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²³ Article 234 para. 1 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²⁴ Article 234 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²⁵ *ibid.*

²²⁶ Article 94 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²⁷ Article 385 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²⁸ Article 388 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²²⁹ Article 94 para. 1(1) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²³⁰ Article 237 of CPC ([Наказателно-процесуален кодекс](#)) 2006. The signature is a proof that the lawyer took part in the examination and ensured that the rights of the child were respected. Note however that many times suspects are first examined as witnesses since witnesses cannot refuse to speak before investigating authority.

²³¹ Article 386 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²³² Article 21 para. 2 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

2.3.9 Right to be heard and to participate in criminal proceedings

The accused has the right to give testimony and to explain his/ her position at any stage of the criminal proceeding. He/she has the right to act alone even if he/she has a legal counsel. The accused has the right to give or refuse to give testimony and to explain his/her position at any stage of the criminal proceeding.²³³ The accused child like the adult also has the right of a 'last word' after the oral pleadings of the parties have been concluded at court proceedings²³⁴. He/she exercises or refuses to exercise this right personally, not through his/her lawyer and/or parents/guardians.²³⁵

No rules specific to the child's right to be heard and to participate in criminal proceedings have been identified. The accused child, like an adult, has the right to know about what they are accused, to be informed about the progress of proceedings and about his/her rights as a party to proceedings, to be heard in matters affecting them and have their views taken into account²³⁶. He/she may exercise these rights without any limitation. The lawyers and pedagogue are a guarantee that the child will understand all information provided.

2.3.10 Right to legal counsel, legal assistance and representation

Every accused person has the right to be represented by a lawyer during criminal proceedings. For child offenders, representation by a defence counsel is mandatory. If the accused or his/her parents/guardians cannot afford a lawyer, the court has the obligation to appoint one²³⁷.

There are no specific rules which allow the child defendant to choose the legal counsel himself/herself. Special legal aid is available for child defendants. Parents/guardians make this choice in accordance with the general rules concerning a child's representation.²³⁸ If the parents do not want to appoint legal counsel or they do not have possibility to do this, the relevant authority has an obligation to appoint a special representative (lawyer) and provide legal aid to the child²³⁹.

The authority's decision on legal aid is sent to the competent Bar Association. The Chair of the competent Bar Association must appoint an attorney who will protect the child's rights²⁴⁰. Children, like adults have right to ask the court for the appointment of a specific attorney. The court must inform the Bar Association of this preference and if it is possible the Bar ensures that this specific attorney is appointed as a legal counsel²⁴¹. However the Bar Association is not legally obliged to appoint a lawyer with specialisation and experience in working with children. If the court does not ensure that child defendants are appointed a legal counsel, it constitutes a serious violation of the procedural rules and the whole criminal proceedings will be compromised.

2.3.11 Remedies or compensation for violation of rights and failure to act

There are no rules providing compensation for the accused. Only if a child is wrongly accused may he/she claim compensation under the State and Municipalities Liability for Damages Act (SMLDA) 1989 ([Закон за отговорността на държавата и общините за](#)

²³³ Article 115 para. 3 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²³⁴ Article 297 para. 1 of CPC (Наказателно-процесуален кодекс) 2006.

²³⁵ Article 297 para. 1 of CPC (Наказателно-процесуален кодекс) 2006.

²³⁶ Article 55 paras 1 and 2 of CPC (Наказателно-процесуален кодекс) 2006.

²³⁷ Article 94 para. 1(1) of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²³⁸ Child victims under 14 years do not have the right to choose his/her own representative and legal counsel. If the child is above 14 years he/she could choose the legal counsel with the consent of the parents - Articles 3 and 4 of LPF ([Закон за лицата и семействата](#)) 1949.

²³⁹ Article 25 para. 1 of LAA ([Закон за правната помощ](#)) 2006.

²⁴⁰ Article 25 para. 4 of LAA ([Закон за правната помощ](#)) 2006.

²⁴¹ Article 25 para. 5 of LAA ([Закон за правната помощ](#)) 2006.

[спреду](#)) or avail himself/ herself of the relatively new procedure under the Judiciary System Act (JSA).²⁴²

Children cannot appeal decisions of the courts on their own. Based on the general rules related to children's representation, they can appeal such decisions with the consent of their parents/guardians. They may also appeal them through their lawyers.

²⁴² Chapter three “a” of JSA ([Закон за съдебната власт](#)) 2007, (Chapter in force since 1 October 2012): “Reviewing applications against infringement of the right to be heard within a reasonable time limit”.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

3.1.1 Provision of information

Child victims, like adult victims have the right to be informed about the sentence imposed upon the perpetrator and about any subsequent appeals. However, child victims are entitled to this information only if they have acquired the status of private accuser and/or civil claimant during criminal proceedings. Otherwise, child victims, like adult victims, have the right to be informed about criminal proceedings only if they have lodged a special request to the investigating authorities and have given their correspondence address²⁴³.

Child victims may receive support from organisations that support victims both during and after the judicial proceedings. Most of these organisations are NGOs²⁴⁴. Even though not legally obliged, the CSD usually informs the child about the possibility to be supported by these organisations. Policemen or investigating authorities also may inform the victims of their right to use such services.

The court informs the child directly of its decision if he/she is in the court room. If not, with respect to children who are below 14 years of age the court has an obligation to send the information to the child through his/her parents or guardians²⁴⁵. There are no special rules in the criminal legislation with respect to the provision of information to child victims 14 years of age and above, i.e. a child victim 14 years of age and above can receive a subpoena but his/her parents must give their consent. Child offenders above 14 years of age, like adults offenders, also have the right to be fully informed about criminal proceedings including the sentence imposed, how to appeal against it, and the reasons for the sentencing²⁴⁶.

3.1.2 Sentencing

The aim of the measures and sanctions imposed upon a child offender is to correct the child's behaviour and prepare him/her for socially useful work²⁴⁷.

Therefore, in order to achieve this goal both the court and the prosecutors always have the obligation to seek the reasons why child offenders committed the respective offences. If they find that the reason is an aberration or thoughtlessness and the crime does not represent a great social danger, they may decide to refrain from initiating criminal proceedings. In this case they must apply corrective educational measures under the *САВМАА (Закон за борба с противообществените прояви на малолетните и непълнолетните)* 1958²⁴⁸. The correctional measures include²⁴⁹:

1. warning (to stop committing crimes);
2. obligation to apologise to the victim;
3. obligation to take part in counselling, educational programmes and programmes which will help him/her to overcome such deviations;

²⁴³ Article 75 of CPC (*Наказателно-процесуален кодекс*) 2006.

²⁴⁴ The list of organisations that work in the area of support of the victims is available at: https://e-justice.europa.eu/contain_rights_of_victims_of_crime_in_criminal_proceedings-171-BG-bg.do?clang=bg&idSubpage=2&member=1#n01.

²⁴⁵ Article 178 of para. 5 of CPC (*Наказателно-процесуален кодекс*) 2006.

²⁴⁶ Article 55 para. 1 CPC (*Наказателно-процесуален кодекс*) 2006.

²⁴⁷ Article 60 of PC (*Наказателен кодекс*) 1968.

²⁴⁸ Article 61 para 1 of PC (*Наказателен кодекс*) 1968.

²⁴⁹ Article 13 para. 1 of САВМАА (*Закон за борба с противообществените прояви на малолетните и непълнолетните*).

4. placement under the educational supervision of his/her parents or persons with whom he/she lives;
5. placement under the educational supervision of the public supervisor;
6. prohibition to enter certain places and/or facilities;
7. prohibition to have contacts with certain persons;
8. prohibition to change his/her permanent address;
9. obligation to repair the injuries with his/her own efforts;
10. obligation to provide community service;
11. placement in a social – pedagogical institution;
12. warning to be placed in an upbringing school with a probation period of 6 months;
13. placement in an upbringing school.

The court can either order the correctional measure itself and inform the Local Commission or send the file to the commission requesting the imposition of the appropriate correctional measure²⁵⁰. In this case the prosecutor may express only his/her opinion about the measures and give some advice relating to the effectiveness of the measures²⁵¹.

If there is no reason to dispense with criminal proceedings and the court finds a child offender above 14 years of age guilty for the crime, the following penalties can be imposed²⁵²:

1. Deprivation of liberty²⁵³;
2. Probation²⁵⁴;
3. Public reprimand²⁵⁵;
4. Deprivation of the right to exercise a profession related to the crime²⁵⁶.

With respect to child offenders, under certain conditions the penalties imposed can be replaced with others in order to reduce the severity of the sanction. In order to do this, the age of the offender is taken into consideration. In particular, child offenders are separated in two groups on the basis of their age when they committed the crime: offenders below the age of 16 years and offenders 16 years of age and above. With respect to children below 16 years of age the court first reduces the punishment and then takes into consideration all arguments for decreasing or increasing the sanction within the reduced limits.

Thus, for child offenders younger than 16 years of age the general punishments will be changed as follows:

- a) If an adult would be subject to life imprisonment, the child offender shall be punished with imprisonment for three to ten years²⁵⁷;
- b) If an adult would be subject to imprisonment for more than ten years, the child offender shall be punished with imprisonment for up to five years²⁵⁸;

²⁵⁰ Article 61 para 2 of PC ([Наказателен кодекс](#)) 1968.

²⁵¹ Article 61 para 3 of PC ([Наказателен кодекс](#)) 1968.

²⁵² Note that the PC ([Наказателен кодекс](#)) 1968, provides in total 11 types of punishments for adults; however, there are no punishments specifically for children.

²⁵³ Article 62 para 1 of PC ([Наказателен кодекс](#)) 1968.

²⁵⁴ Article 62 para 2 of PC ([Наказателен кодекс](#)) 1968.

²⁵⁵ Article 62 para 3 of PC ([Наказателен кодекс](#)) 1968.

²⁵⁶ Article 62 para 4 of PC ([Наказателен кодекс](#)) 1968 in connection with Article 37 para 1(7) of PC ([Наказателен кодекс](#)) 1968. Only if explicitly stipulated by the Special part of the PC.

²⁵⁷ Article 63 para. 1(1) of PC ([Наказателен кодекс](#)) 1968.

- c) If an adult would be subject to imprisonment for more than five years, the child offender shall be punished with imprisonment for up to three years²⁵⁹;
- d) If an adult would be subject to imprisonment for up to five years, the child offender shall be punished with imprisonment for up to two years, but no more than the adult would be punished²⁶⁰.
- e) If the punishment for an adult should be a penalty, the child offender shall be punished with a public reprimand, i.e. dissemination of information about the offence via the media²⁶¹.

With respect to children 16 years of age and above, the court uses this mechanism only when the case is for a severe crime and the punishment will be many years of imprisonment²⁶².

If the child offender was between 16 and 18 years old when he/she committed the offence the penalties which can be imposed are as follows:

- If an adult would be subject to life imprisonment, the punishment for the child offender would be imprisonment between 5 and 12 years²⁶³;
- If an adult would be subject to imprisonment of at least 10 years, the punishment for the child offender would be imprisonment for two to eight years²⁶⁴.

The judge will impose the penalty in each case taking into account the information collected about the child offender's behaviour and the act committed, the reasons for committing the crime and all other circumstances which extenuate or aggravate the guilt of the child²⁶⁵.

A decision imposing imprisonment for up to three years can be suspended for a period from one to three years.²⁶⁶ In this period the convicted child must not commit any crimes. If he/she commits a crime of general nature during this time the first sentence will be executed together with the second one²⁶⁷ or the court could decide that the child can be released partially or entirely from serving the sentence whose fulfilment has been postponed²⁶⁸.

If the court orders that the child be imprisoned for a period less than a year and the execution of the decision has not been suspended, the child offender shall be released after serving part of his/her sentence and will then be placed in a correctional school or the judge will order other measures under the САВМАН ([Закон за борба с противообществените прояви на малолетните и непълнолетните](#))²⁶⁹. However, this rule is not applicable when the child offender has been sentenced because of an offence committed during imprisonment or after he/she turned 18 years of age or if this conviction is not his/her first.²⁷⁰

²⁵⁸ Article 63 para. 1(2) of PC ([Наказателен кодекс](#)) 1968.

²⁵⁹ Article 63 para. 1(3) of PC ([Наказателен кодекс](#)) 1968.

²⁶⁰ Article 63 para. 1(4) of PC ([Наказателен кодекс](#)) 1968.

²⁶¹ Article 63 para 1(5) of PC ([Наказателен кодекс](#)) 1968.

²⁶² Article 63 of PC ([Наказателен кодекс](#)) 1968. See more about this system see in: Metodieva, Yuliana; CIELA 2008 'Legal regime of the juvenile offenders', para 128-135.

²⁶³ Article 63 para. 2(1) of PC ([Наказателен кодекс](#)) 1968.

²⁶⁴ Article 63 para. 2(2) of PC ([Наказателен кодекс](#)) 1968.

²⁶⁵ Article 63 para. 3 of PC ([Наказателен кодекс](#)) 1968 in connection with Article 54 of PC ([Наказателен кодекс](#)) 1968.

²⁶⁶ Article 69 of PC ([Наказателен кодекс](#)) 1968.

²⁶⁷ Article 69a of PC ([Наказателен кодекс](#)) 1968.

²⁶⁸ Article 69 para. 2 of PC ([Наказателен кодекс](#)) 1968.

²⁶⁹ Article 64 para. 1 of PC ([Наказателен кодекс](#)) 1968.

²⁷⁰ Article 63 paras 3 and 4 of PC ([Наказателен кодекс](#)) 1968.

For the sentencing of adults for offences committed as children above 14 years old, the punishments stipulated for the child offenders by the special part of this Code must be replaced by the general (adult) sentences²⁷¹.

3.1.3 Deprivation of liberty

Child offenders are subject to measures entailing the deprivation of their liberty only in case there are no other measures which can ensure their correction. Please see [Section 3.1.2](#) on the deprivation of liberty measures which can be imposed upon child offenders.

Child offenders who are deprived of their liberty are held in separate facilities from adult offenders²⁷². There are only two correctional institutions for the detention of child offenders in Bulgaria – one for boys and one for girls²⁷³. When the child turns 18 he/she should be transferred to a regular prison. However the prosecutor may decide to prolong the time he/she is detained in the correctional facility until the child completes his/her education, but not after he/she turns 20 years old²⁷⁴.

During their imprisonment, children have right to continue their education and thus, the detention facilities have the obligation to ensure that detained children can participate in educational programmes²⁷⁵.

In addition, detention facilities must ensure that children have all possibilities for re-socialisation. Therefore, they must allow child offenders to have contacts with their relatives, persons who may have a positive influence on them as well as and with NGOs' representatives²⁷⁶. The director of the facility may allow additional time for meetings between the child and member of his/her family if they have a positive influence upon him/her²⁷⁷.

Early release

Child offenders may be released early²⁷⁸ upon the proposal of the prosecutor of the region where they are sentenced²⁷⁹ and the Commission responsible for the imposition of disciplinary punishments²⁸⁰. The proposal shall be heard by the regional court in the region where the sentence is executed²⁸¹.

If the court rejects the proposal for an early release, a new one may be lodged with the court at the earliest after three months from the rejection²⁸².

The time that children have spent attending educational programmes must be counted as served time. This will lead to earlier release²⁸³.

²⁷¹ Article 63 CPC.

²⁷² Article 65 of PC ([Наказателен кодекс](#)) 1968.

²⁷³ Mateeva, Yuliana, 'Legal regime of the juvenile offenders' Ciela, 2008. page 103.

²⁷⁴ Article 65 para. 2 of PC ([Наказателен кодекс](#)) 1968.

²⁷⁵ Article 189 para. 1 of Execution of the Punishments and the Arrests Act (EPAA) 2009.

²⁷⁶ Article 190 para. 1 of EPAA 2009.

²⁷⁷ Article 190 para. 3 (2) EPAA 2009.

²⁷⁸ Article 70 and 71 of PC ([Наказателен кодекс](#)) 1968.

²⁷⁹ Article 437 para. 1 (1) CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁸⁰ Article 437 para. 1 (2) CPC ([Наказателно-процесуален кодекс](#)) 2006 in combination with Article 73 of Execution of the Punishment and Arrests Act (*Закон за изпълнение на наказанията и задържането под стража*). According to Article 73 EPAA members of the commission are: the Chief of the prison/facility, the deputy chief responsible for security, the person responsible for observing the work undertaken at the prison/facility, the head social worker, the psychologist of the prison/facility and a member of the Local Commission for Combination with Anti-social Acts of Minor and Adolescent, During the meetings of the Commission the prosecutor may be present.

²⁸¹ Article 438 and Article 439 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁸² Article 443 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁸³ Article 189 para. 2 of EPAA 2009. Article 178 para. 1 of EPAA 2009 provides that every two working days must be counted as three days.

Restriction of liberty as correctional measure

Apart from imprisonment, child offenders may be subject to other measures which entail the deprivation of their liberty. As a correction measure, the Local Commissions and the court may place in social pedagogic institutions and upbringing schools children over eight years old (who have committed an anti-social act or a crime that does not represent a great social danger²⁸⁴) or children considered prone to committing an anti-social act²⁸⁵. Despite the fact that these facilities are legally considered as places for the execution of 'correctional measures', in reality placement here is nothing less than a measure restricting a child's liberty²⁸⁶. The placement in the social pedagogic institutions is supposed to be a less restrictive measure than the placement in a correctional school²⁸⁷ even though both institutions impose the same correctional measures and restrictions²⁸⁸.

Compensation for the detention imposed

If the child has complaints concerning the conditions of detention he/she has the right to start administrative proceedings against the State/municipality²⁸⁹. The complaint must be submitted by the child with the consent of his/her parents or guardians.

Monitoring the detention places for children

The National Ombudsman has an obligation as a National Preventive Mechanism under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to monitor places for detention, including those for child offenders.

The SACP also monitors the social schools – institutions and upbringing schools – institutions (correctional schools).

3.1.4 Criminal records

Sentences imposed upon children and adults are recorded in a special register²⁹⁰. Based on these records the Criminal Records Bureaus which are responsible for collection of information on sentences provide copies of children's and adults' criminal records. However, the criminal record is *ex officio* expunged in the following cases: if the person has been sentenced conditionally and during the conditional period he/she did not commit another crime; if the person has been sentenced to imprisonment or probation and he/she did not commit another crime within three years after serving his/her sentence; if the person has been forbidden from exercising a specific profession and he/she did not commit another crime after one year from serving his/her sentence²⁹¹. Besides the exoneration by right²⁹², there are just two types of exoneration: judicial exoneration²⁹³ and absolute exoneration²⁹⁴.

²⁸⁴ Article 13 of CABMAA ([Закон за борба с противообщественните прояви на малолетните и непълнолетните](#)) 1958.

²⁸⁵ Article 28 of CABMAA ([Закон за борба с противообщественните прояви на малолетните и непълнолетните](#)) 1958.

²⁸⁶ State Agency for Child Protection; 'Analytical report about the assessment of social pedagogic institutions and upbringing schools – institutions', 2009. ('Аналитичен доклад от оценка на социално-педагогическите интернати и възпитателни училища – интернати')

²⁸⁷ Article 13 of CABMAA ([Закон за борба с противообщественните прояви на малолетните и непълнолетните](#)) 1958.

²⁸⁸ State Agency for Child Protection; 'Analytical report about the assessment of social pedagogic institutions and correction schools', 2009.

²⁸⁹ Such proceedings will be initiated under the SMLDA ([Закон за отговорността на държавата и общините за вреди](#)) 1989.

²⁹⁰ Regulation 8/26.2.2008 for functioning and organisation of Bureaus for criminal records (*Наредба 8/26.02.2008 за функциите и организацията на Бюрата за съдимост*).

²⁹¹ Article 85 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁹² Article 86 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁹³ Article 87 of CPC ([Наказателно-процесуален кодекс](#)) 2006.

²⁹⁴ Article 88a of CPC ([Наказателно-процесуален кодекс](#)) 2006.

When the criminal record is expunged, information on penalties imposed is no longer visible in the certificates²⁹⁵ issued by the Criminal Records Bureau.

However, the record continues to exist and Criminal Records Bureaux have the obligation to reveal all information about the sentences imposed upon a person when the court, the investigating authority or the prosecutor request such information. There are no special rules for child offenders except for the rules relating to the replacement of the punishment with a milder one which also means that the relevant entries in the register are expunged in a shorter period of time.

²⁹⁵ Article 34 para 3 of Regulation 8/26 February 2008.

4 Strengths and potential gaps

In Bulgaria, several rules have been identified for the protection of children's rights. Children have the right to participate in every kind of proceeding which may affect their interests. The prohibition of discrimination on the ground of age further strengthens the position of children in Bulgaria. Additionally, specific rules and mechanisms have been established to protect child victims of human trafficking while victims may also seek compensation for damages directly from the State under certain circumstances. Finally, steps have been taken to ensure the coordination of professionals who work with child victims while various NGOs provide them with support.

With respect to child suspects/offenders, it is noted that the minimum age for criminal responsibility is 14 years of age. The deprivation of liberty is a measure of last resort for child offenders. When the court imposes detention, children must be placed separately from adults. This is also applicable when the child is detained by the police.

Moreover, child suspects/offenders can receive legal aid under the same conditions as adults. However, child offenders must obligatorily be represented by a lawyer throughout criminal proceedings in order to ensure that the child's rights are protected.

Gaps

In general, there are no rules related to the professional training of officials working with children and on vetting. Moreover, no provisions have been identified regulating the relationship between lawyers and children in order to make sure that the lawyer expresses the wishes of the child.

Certain gaps have been identified with respect to child victims. First, there are not enough rules to ensure that children receive proper information during their first contact with the legal system. Second, there are no rules to ensure that the child victim will be heard *in camera*, without the presence of the perpetrator of the crime. Third, it is not always certain that the different professionals cooperate effectively to ensure the protection of a child victim's rights.

Concerning child suspects/offenders, a significant gap is the lack of a specialised court to adjudicate cases involving children. In addition, there are no rules to ensure that the child offender will be tried in child-friendly courtrooms.

Conclusions

Bulgarian law contains rules for both child victims and children who are in conflict with the law (child offenders). The best interests of the child should be the focal point of all proceedings where a child is involved. Every child can be heard in criminal proceedings if he/she has the ability to understand questions and to express himself/herself. In every case when a child is in contact with the judicial system he/she has the right to have independent protection and advice.

Every child who commits a crime over 14 years of age will be criminally responsible if he/she is able to understand their criminal act. In the opposite case or if the child is between 8 and 14 years of age a specially established body for combating children's anti-social acts will impose the necessary corrective measures. Note that there are no special juvenile courts in Bulgaria, i.e., cases against child suspects are adjudicated in the general criminal courts.

Child victims and witnesses also receive special protection in the Bulgarian legal system. Child victims may become private accusers or can apply to become civil claimants thus requesting compensation from the offender for the damages they have incurred.

The Chairman of the State Agency for Child Protection acts as a specialised body of the Council of Ministers providing management, coordination and control in the field of child protection²⁹⁶.

Local Commissions established to combat anti-social acts committed by children are responsible for the protection of the rights of children in conflict with the law. Further, a special prosecutor's network is in the process of preparing rules to ensure child-friendly criminal proceedings. There are also several NGOs which support child victims.

The strengths of the Bulgarian law system relate to maintaining the child's best interests during judicial proceedings. One of the most important gaps is the lack of a specialised court for child offenders; however, gaps have been identified with respect to the protection of both child victims/witnesses and child suspects/defendants/offenders.

²⁹⁶ Article 17 of CPA ([Закон за закрила на детето](#)) 2000.

Annex – Legislation reviewed during the writing of this report

- Execution of Punishments and Arrests Act of 3 April 2009. Entered into force: 1 June 2009. Last amendment: 2 August 2013.
- Judicial Systems Act of 7 August 2007. Last amendment: 13 August 2013.
- Regulation for the Function of Upbringing School Institutions and Social-Pedagogic Institutions issued by Ministry of Education and Science (*Министерство на образованието и науката*) on 1 September 2006.
- Support and Financial Compensation of Victims of Crimes Act of 22 December 2006. Entered into force: 1 January 2007. Last amendment: 27 April 2010.
- Criminal Proceeding Code of 24 October 2005 by National Assembly. Entered into force: 29 April 2006. Last amendment – 13 August 2013.
- Domestic Violation Protecting Act of 29 March 2005. Last amendment: 17 December 2010.
- Law for Protection of Persons in Jeopardy Related to the Criminal Proceeding of 23 November 2004. Entered into force: 25 May 2005. Last amendment: 16 October 2009.
- Equal Act of 30 September 2003. Entered into force: 1 January 2004. Last amendment: 2 August 2013.
- Radio and Television Act of 24 November 1998. Last amendment: 15 March 2013.
- Regulation for Organisation and Function of Homes for Temporary Placement of Minors and Adolescents of 21 July 1998. Last amendment: 14 October 2003.
- UN Convention on the Rights of the Child. Adopted by General Assembly resolution 44/25 of 20 November 1989. Entry into force 2 September 1990. Bulgaria ratified the Convention in 1991.
- Regulation for Children's Pedagogical Rooms of 7 August 1998.
- State and Municipalities Liability for Damages Act of 5 August 1988. Entered into force: 1 January 1989. Last amendment: 11 December 2012.
- Penal Code of 2 April 1968. Entered into force: 1 May 1968. Last amendment 1 July 2013.
- Combating Anti-social Behaviour of Minors and Adolescents Act of 14 February 1958. Last amendment: 2 August 2013.
- Law for the Persons and Families of 9 August 1949. Entered into force: 10 September 1949. Last amendment: 29 December 2002.
- Combating Human Trafficking Act of 20 May 2003. Last amendment: 2 August 2013.