



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

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Executive summary

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

The most striking feature of the Slovak approach to children's involvement in criminal proceedings is that they are not dealt with separately but rather fall within the formal criminal justice system. They are primarily legislated for through the Criminal Code and the Criminal Procedure Code. There are no special acts regulating children in criminal proceedings, nor are there specialised courts dealing with children in criminal proceedings whether as suspects, accused persons or victims. The only exception within the criminal justice system is the specialisation of prosecutors in crimes committed by child offenders and crimes against children, which was established in 2008. In addition to the Criminal Code, there are other legislative acts dealing partly with issues of children involved in criminal proceedings, such as the regulation on the social protection of children and a probation and mediation service in Slovakia that participates in the execution of penalties and measures imposed on children in criminal proceedings.

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

The age of criminal responsibility is 14 years old, i.e. a person below the age of 14 who commits a criminal offence is not held criminally responsible and may not be prosecuted. Special provisions apply to child offenders and take priority over general provisions, i.e. general provisions may only be applied if special provisions do not stipulate otherwise. The aim of the special legal provisions for child offenders is to prevent them from re-offending and to educate them. They also seek to ensure that the mental condition, maturity and specific needs of child offenders are taken into account in criminal proceedings as well as to provide safeguards and protection of their rights throughout.

The system of social protection and social guardianship of children involved in criminal proceedings is carried out by the child socio-legal protection services and social guardianship services in close cooperation with the relevant judicial authorities. They are competent to protect the rights of the child, to ensure their welfare and their best interests, and play an important role in helping children and their families at a local and regional level.

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

In terms of strengths, the level of a child's maturity and development has to be examined in order to deepen the individualised approach to the criminal case of the child. The recent introduction of criminal sanctions and measures applying to children, together with the establishment of a probation and mediation service can be considered to have strengthened the Slovak juvenile justice system, as well as the specialisation of prosecutors in crimes committed by child offenders and crimes against children.

In terms of potential gaps of the Slovak approach to children involved in criminal proceedings, it is worth mentioning the fact that issues related to children are not dealt with separately, as Slovakia does not have a specialised system of juvenile justice, with the exception of the specialisation of prosecutors.

Victims in general, and children in particular, do not enjoy the same rights in criminal proceedings as other parties and rather act as a secondary party in criminal proceedings with a limited impact on them. Only a few courts are equipped with specialised rooms for children's interviews and there are no specialised waiting rooms for children who are victims of crimes.

The social protection services have an important role in supporting children and their families involved in judicial proceedings. However, they often play a formal role when assisting children. The main proceedings may be held without their presence. The social protection services cannot cover all the cases due to their limited resources and capacities.



Abbreviations

CA	Competent Authority
CoE	Council of Europe
EC	European Commission
EU	European Union

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

Children in the Slovak criminal justice system are not dealt with separately but rather fall within the criminal justice system with some specificities – this applies to both procedural matters and institutions, with neither being established as an autonomous system.

As such, there are no special acts regulating children in criminal proceedings. Nor are there specialised courts dealing with children in criminal proceedings either as suspects, accused persons or victims. The only exception within the criminal justice system is the specialisation of prosecutors in crimes committed by child offenders and crimes against children, which was established in 2008¹.

In addition to the Criminal Code, there are other legislative acts dealing partly with issues of children when involved in criminal proceedings, such as the regulation on the social protection of children and a probation and mediation service in Slovakia.

Juvenile justice – child suspects, defendants and offenders

Juvenile justice forms an integral part of the criminal justice system and is primarily legislated for through the Criminal Code and the Criminal Procedure Code that came into force in 2006.

New Criminal Codes have brought several changes in relation to juvenile justice issues such as the age of criminal responsibility or new measures that are available when sentencing children. Special provisions of the Criminal Code² and of the Criminal Procedure Code³ regulate the juvenile justice system. The special provisions on child offenders take priority over general provisions, i.e. general provisions may only be applied if special provisions do not stipulate otherwise.

The aim of special legal regulations on child offenders is to prevent them from re-offending and to educate them so they will be able to lead an upstanding life in accordance with the law. They also seek to ensure that the mental condition, maturity and specific needs of child offenders are taken into account in criminal proceedings as well as to provide safeguards and protection of their rights throughout.

The age of criminal responsibility is 14 years old, i.e. a person below the age of 14 who commits a criminal offence is not held criminally responsible and may not be prosecuted. Further details are provided in [Section 3.1](#).

In relation to criminal responsibility for less serious criminal offences classified as misdemeanours⁴, (i.e. all criminal offences committed by negligence and all intentional criminal offences punishable by imprisonment not exceeding 5 years), the law requires that such offences must reach a certain degree of gravity to be qualified as a misdemeanour. The gravity of the misdemeanour is assessed on an individual case basis, whether committed by a child or an adult, using criteria prescribed by law, such as taking into account how the offence was committed, its consequences, the circumstances, the degree of culpability (whether through negligence or intention), and the motivation of the offender⁵. While the criteria set forth in the Criminal Code for assessing the gravity of the offence are the same for both children and adults, the level of tolerance for offences by children is higher, and the gravity of the offence committed by a child will need to be higher in order to be qualified as a

¹ Internal order of General Prosecutor No. 6/2008.

² Chapter IV classed as 'Special provisions on prosecution of juveniles'.

³ Chapter VII classed as 'Special types of criminal proceedings'.

⁴ There are two categories of criminal offences in Slovakia classed, according to their gravity, into misdemeanours and felonies that apply to children and adults alike.

⁵ Sec. 10 subsec. 2 of the Criminal Code.

criminal offence. Assessment as to whether the gravity of a particular criminal offence was higher than negligible/minor in individual cases is up to the police/prosecutor or the court to decide based on the above mentioned criteria.

Criminal Trials

The Slovak court system is based on a three-level system of general courts. This court system consists of 54 district courts, 8 regional courts, Specialised Criminal Court (which is at the level of regional court) and the Supreme Court of the Slovak Republic.

The courts decide in civil and criminal matters, they also review the lawfulness of decisions issued by administrative bodies (administrative justice). They hear cases in panels of judges unless the law provides that a single judge must decide in the matter (e.g. in district courts a single judge decides).

General courts have specialised sections including e.g. civil, and criminal sections. Criminal offences are decided by the criminal sections, whereas civil law disputes are heard by civil sections. The different sections adjudicate under different procedural rules. Rules applicable to criminal proceedings are set out in the [Criminal Procedure Code](#), whereas civil judicial proceedings are regulated by the CPC.

The Constitutional Court of the Slovak Republic stands outside of the court system competent to deal with criminal cases.

All children are tried in general courts. In principle, criminal cases involving children begin at district courts, which are courts of first instance and a child may appeal to a regional court. In case of an extraordinary appeal, the case may end up in the Supreme Court.

In addition to district courts, the Specialised Criminal Court, a first-instance court, hears serious criminal offences with special subject-matter jurisdiction limited to certain crimes such as corruption, economic crime, crimes committed by terrorist or organised criminal groups etc. Due to the limited range of crimes that can be dealt with by the Specialised Criminal Court, a child offender will only exceptionally be tried before this court⁶. There is no trial by jury but lay people elected by local councils participate in the administration of justice by sitting as judges in judicial panels in criminal cases in district courts. Two lay judges sit with a professional judge hearing cases at first instance. Appellate and Supreme court panels are composed of professional judges only. In Slovakia, courts have general jurisdiction and can hear all cases except for those falling under the jurisdiction of the Specialised Criminal Court.

Criminal proceedings against child offenders are classified as a special type of criminal proceeding and are different from criminal proceedings against adults in the following ways:

The primary purpose of special child offender proceedings is to eliminate the possible harmful impact of criminal proceedings on children, due to their lower level of maturity, less life experience and also a lower ability to defend themselves. Such proceedings aim to promote a positive and educational impact on the child, to improve their future prospects and to extend and secure their procedural rights. To achieve these goals, a child must be assisted by a legal counsel from the moment when charges are brought against the child. A child may not waive their right to counsel in any circumstance. Furthermore, a legal guardian, a child psychologist, a body of socio-legal protection of children and social guardianship services are parties to criminal proceedings with an autonomous right to defence, i.e. the mentioned parties act for the child and may appeal the decision, even against the will of the child.

In criminal proceedings against child offenders, investigation, summary investigation and adjudication are entrusted to those whose life experience as well as experience in youth education guarantees the fulfilment of the educational purpose of the child offender in criminal proceedings. The police, prosecution and the courts act in close cooperation with

⁶ The organisation of the court system is regulated by Act No. 757/2004 Coll. on Courts.

the institutions entrusted with the care of youth, or the institutions providing psychological care.

If required for the benefit of the child offender, the court may refer the case to the court in the district where the child resides or to another court if it would be more effective.

Common court proceedings against a child offender and a person older than 18 years old may be carried out only if it is necessary for comprehensive and objective clarification of the case or if there are other important reasons. Thus, special provisions apply to the joint proceedings in regard to the child.

The main hearing and a public hearing on the agreement on guilt and punishment cannot be held in the absence of the child suspect.

Child protection system

System of social protection of children and social guardianship

The system of social protection and social guardianship⁷ of children involved in criminal proceedings is carried out by child socio-legal protection services and social guardianship services in close cooperation with the relevant judicial authorities. In order to protect the rights of the child and to ensure their welfare and their best interests, socio-legal protection institutions and social guardianship services (namely bureaus of labour, social and family affairs) play an important role in helping children and their families at a local and regional level.

To fulfil their task, accredited and non-accredited non-state actors cooperate with the above-mentioned bureaus. The basic objective of such measures is to provide assistance to families so that children can grow up in the care of their parents. They also play a preventive role in situations such as parents' separation, or where parents are unable to solve problems or conflicts in the family. Various measures taken by these institutions include recommendations, social counselling, psychological support, and professional working methods to facilitate conflict resolution in the family and to adapt to the new situation. If necessary, these authorities may also decide upon imposition of various educational measures.

Social protection institutions and social guardianship services represent children in court proceedings in which children cannot be represented by their parents due to a conflict of interests. Social guardianship measures are taken when children have committed administrative or criminal offences, have abused drugs or are addicted to drugs or other substances and/or suffer from behavioural disorders. Children's social protection institutions and social guardianship services perform tasks in criminal proceedings against child offenders. Such tasks include:

- the identification and notification to law enforcement agencies and courts about relevant facts concerning events which affected the behaviour of a child or about facts concerning their family, school, or social environment;
- the maintenance of written and personal contact with children during imprisonment or protective care, the participation in the re-education of a child and assistance in solving their personal, family and social problems;
- the preparation of children for release from imprisonment and custody;
- assistance of a child after release from imprisonment or custody, particularly in facilitating the return to family;
- support to find opportunities to continue their vocational training or job search;
- cooperation with the establishment in which the child receives inpatient care, protective care or educational measures;

⁷ Act No. 305/2005 Coll. on socio-legal protection of children and social guardianship.

- assisting law enforcement authorities with performing tasks related to criminal proceedings and cooperation with them during probation and mediation.

A child may be placed in facilities for the social protection of children and social guardianship for the period of time when the child's family situation is not stable or for the purpose of execution of educational measures imposed by a court. For these purposes, crisis centres and re-socialisation centres have been established at regional level by higher territorial units or accredited bodies. Municipalities may also create such centres.

Ombudsman

The Ombudsman is an independent authority that participates in the protection of fundamental rights and freedoms. Any person whose fundamental rights and freedoms have been breached by a decision, action or a public body's failure to act may complain to the Ombudsman⁸. The Ombudsman is also competent to protect the rights of a child.

The Ombudsman office operates a portal on its website, which aims to familiarise children with their rights and the mandate of the Ombudsman and to provide and mediate contacts with organisations providing help to children. This site also offers children the opportunity to ask questions anonymously or write about their problems.

Government Council for Human Rights, National Minorities and Gender Equality

In March 2011 the Government launched a major reform of public advisory bodies, which reduced the original number of advisory bodies from 26 to a total of 3 and the tasks of the advisory bodies working in the field of human rights were integrated into one body – the Government Council for Human Rights, National Minorities and Gender Equality. The Government Council is a standing advisory, professional, coordinating and advisory body of the Government in the field of the protection of fundamental human rights and freedoms, political and civil rights, the rights of national minorities and ethnic groups, economic, social and cultural rights, environmental rights and cultural heritage as well as children's rights and the right to promote the best interests of the child and promote the principle of equal treatment and equality, including gender equality. In regard to children, the previous Ministry Council for children has been replaced by the Committee for Children and Youth.

Compensation for victims of violent crimes

European Union law⁹ had a significant impact on the Slovak system for victims' rights, whether children or adults, and on the compensation system. First and foremost, crime victims may claim damages directly in criminal proceedings if all the legal conditions prescribed by law are met¹⁰. If such compensation is not possible or the victim is not successful in criminal proceedings, the victim may claim damages in civil proceedings. However, in May 2013 the Slovak National Assembly adopted an amendment concerning legislation on compensation of victims of violent crimes that also provides victims with the possibility to claim compensation for moral damage.¹¹

Compensation for victims of violent crimes is provided for by special legislation¹². According to the special legislation, a victim who has suffered bodily harm or death as a result of a crime has the right to compensation if the compensation was not provided by other means, i.e. criminal or civil proceedings.

⁸ Act. No 564/2001 on Public Defender of Rights.

⁹ The Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings and Council Directive 2004/80/EC of 29 April 2004 related to compensation to crime victims. While the aforementioned Framework Decision has been transposed into the Criminal Procedure, the Directive on compensation to crime victims found its expression in the Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes.

¹⁰ For further details see sec. 46-54 of the Criminal Procedure Code.

¹¹ [Amendment of Act n. 215/2006 Coll. 'Compensation of Victims of Violent Crimes'](#).

¹² Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes.

The purpose of the compensation is to provide a one-time replacement for financial compensation by the State to victims of violent intentional crimes, having an adverse effect on health, in the event that alternative compensation, especially by the offender, is not possible (for example, the offender is not known) or is considerably more difficult (for example, the offender is indigent). The philosophy of this approach is based on the premise that the State is responsible for protecting the life and health of persons staying in its territory.

Training requirements

Judges who are involved in cases that concern children (within criminal law sections) are not required to undertake specialised training. As a way of ensuring their professional development, judges are allowed to attend one or two-day training courses. These courses are organised by the Judicial Academy¹³.

The Judicial Academy is an independent educational institution with nationwide competence that provides trainings to judges, prosecutors and court officials. The courses offered by the Judicial Academy are not compulsory, which implies that each judge may decide whether he/she wants to participate and on which courses. The courses offer an opportunity for judges to learn more about different areas of law and to obtain knowledge about other social, scientific disciplines, such as psychology. Judges may also receive training on the treatment of children and young people in judicial proceedings, and in particular teach judges about the way to communicate with and treat children, especially during the questioning of the child/young person.

In Slovakia judges are appointed for life. There is no system in place to control their abilities and judges are not subject to regular vetting. However in case of severe professional mistakes, judges can be subject to disciplinary proceedings.

Similarly to judges, prosecutors do not receive specialised training on a regular basis, neither are they subject to regular vetting.

Officers (social workers) of the local offices of socio-legal protection of children and social guardianship do not receive special training. Social workers must however have certain qualifications, including education of at least first graduate degree (Bachelors decree) in the area of social work¹⁴. Officers (social workers) of local offices are not subject to regular vetting.

This situation might change by the adoption of the National Action Plan for children for 2013 – 2017, which will provide for the continuous education of judges, prosecutors and other court officials. The proposal also calls for the reinforcement of adequate and systematic training of all professional groups (e.g. teachers, social workers and staff in institutions caring for children and special educational facilities, health personals, including psychologists, legislators, judges, lawyers, guardians of public order, civil servants, local authority representatives, etc.) working for and with children (education on children's rights, including activities aimed at the most vulnerable groups). The education and training will also cover the provision of information on the Convention on the Rights of the Child and on principles such as the best interests of the child.

Cooperation between professionals and competent authorities

There is currently no official cooperation on a permanent basis between courts and other institutions. However, different bodies have already initiated the organisation of conferences dedicated to this topic (e.g. the Local Office of Labour, Social Affairs and Family in Bratislava, the police and the Ministry of Justice have already initiated the organisation of such conferences).

¹³ The Judicial Academy was established by [Act No. 548/2003 Coll.](#) on Judicial Academy and started to operate on 1 September 2004.

¹⁴ The conditions are stipulated in § 84 [Act. No. 448/2008 Coll.](#) on social services in municipalities and higher territorial units.

To ensure that social workers interact in cases that involve children, the Ministry of Labour, Social Affairs and Family and Central Office of Labour, Social Affairs and Family have issued guidelines including information on how to work with children and what kind of behaviours can be expected from children of a certain age. These guidelines include details on how to proceed in cases that involve children, how to determine the threat level of the child, etc. These guidelines are in the form of internal instruction, thus are not publicly available on the website of the Central Office of Labour, Social Affairs and Family, but can be obtained upon request¹⁵.

Each local office of socio-legal protection of children and social guardianship has its own psychologist or more psychologists and social work must be coordinated with them.

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

The Criminal Code defines a child as a person younger than 18 years old if the Criminal Code does not state otherwise¹⁶. However, the definition of a child does not affect the age of criminal responsibility as this definition only refers to child as an object of the criminal offence (i.e. victim), not the offender. The concept of evolving capacity of the child does not exist within Slovak criminal law as such; see [section 3.1](#) for more details.

Non-discrimination

The Slovak National Centre for Human Rights¹⁷ is competent for the monitoring and evaluating of human rights, including children's rights, the principle of equal treatment under the Anti-discrimination Act¹⁸ and protection against discrimination.

The Anti-discrimination Act extends, in some aspects, the scope of the anti-discrimination regulation beyond the fundamental rights and freedoms guaranteed by the Constitution. According to the Anti-discrimination Act, the statutory obligation to observe the principle of equal treatment within the areas set down by law applies to 'everyone'. The duty to observe the principle of equal treatment is defined as the prohibition of discrimination on the grounds of sex, religion or belief, race, affiliation with nationality or an ethnic group, disability, age, sexual orientation, marital status and family status, colour of skin, language, political or other opinion, national or social origin, property, lineage/gender or other status.

The Anti-discrimination Act introduced significant changes in the field of judicial remedies for unequal treatment in the areas and on the grounds which fall under its scope. Pursuant to the Anti-discrimination Act, a person and/or legal entity who considers themselves wronged in their rights and interests protected by law – because the principle of equal treatment has not been applied to them – may pursue their claim by judicial proceeding before the civil court of the first instance.

¹⁵ See § 5 sec. 1 letter e.) of [Act no. 211/2000 Coll.](#) on free Access to information due to which the compulsory subjects (specified in § 2) have to publicize the list of regulations, guidelines, instructions, interpretative opinions, according to which the compulsory subject (state organ) acts and decides or that govern the rights and obligations of natural and legal persons in relation to the compulsory subject.

¹⁶ The definition of a child has been changed by the latest amendment of the Criminal Code – the Act 204/2013 that came into force on 1 August 2013. Before, the Criminal Code defined a child as a person younger than 18 years old if he/she has not attained the age of maturity earlier¹⁶. A person younger than 18 years of age may attain the age of maturity from the age of 16 if they are married and if there was a previous consent of a court in civil proceedings. If so, such a person could no longer be considered a child under criminal law.

¹⁷ The Act no. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights as amended.

¹⁸ Act no. 365/2004 Coll. on Equal treatment.

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

Generally, victims act rather as observers in criminal proceedings without a right to intervene actively.

Under Slovak law, the status of victim is not formally recognised, since legal terminology only refers to the injured¹⁹. However for the purposes of this study, the term victim will continue to be used. The victim is a person who has suffered bodily harm, property damage, moral or other damage by a criminal offence, or whose other rights or freedoms protected by law have been breached or endangered by a criminal offence. Thus, a wide range of persons may be considered as victims in criminal proceedings whether they were injured directly or indirectly by a criminal offence.

The most significant right of the victim is the right to claim compensation for damages caused by the criminal offence during criminal proceedings. Further rights are mentioned under [Section 2.1.2.](#)

There are no special provisions on child victims in criminal proceedings but measures existed only to protect children under 15 years of age during interviews related to criminal proceedings²⁰. That has been changed by the latest amendment of the Criminal Code (Act n. 204/2013 Coll. that came into force on 1 August 2013) which has broadened the scope of the measures to all children. Thus, special provisions of Criminal Procedure Code aimed at the protection of children during interviews throughout criminal proceedings now apply to all children under 18 years of age. All the procedural rights belonging to victims, whether child or adult, in criminal proceedings are contained within the Criminal Procedure Code²¹.

2.1.1 Reporting a crime

There are no specific provisions on a child's ability to report crime, nor are there any restrictions on children reporting crimes in Slovakia. In general, any person, without regards to their age, may report a crime to the competent authorities (police and prosecution), and they may do so in various forms – oral, written, electronic or by means of telegraph or telefax²². A crime may also be reported to a court which will automatically transfer it to the police for follow up.

Children in state facilities for children where protective re-education measures or constitutional care of the child is carried out may also report any offence or breach of a right during their detention to prosecutors who visit on a quarterly basis. Prosecutors often use the possibility to interview the child without the presence of a third-party to discuss any breaches. They may also get the information via post boxes provided to enable children to anonymously report to prosecutors any offence or breach of their rights. If prosecutors are aware of any infringements of a child's rights, they thoroughly control how the report of such a child has been processed. They usually make use of their right to be present at the interview of the child to help facilitate effective and speedy investigation of the reported crime²³.

¹⁹ Part 7, Sec. 46-52 of the Criminal Procedure Code.

²⁰ Sec. 135 of the Criminal Procedure Code on interviewing the child younger than 18 years.

²¹ Sec. 46-54 of the Criminal Procedure Code.

²² Sec. 62 of the Criminal Procedure Code.

²³ Continuous information on the performance of tasks under the National Action Plan for Children 2009-2012 for prosecution department, Bratislava 28th March 2011.

2.1.2 Provision of information

Police officers or prosecutors have the obligation at the moment of first contact to instruct victims about their rights and about organisations providing help to victims in Slovakia in writing²⁴. There are no specific provisions relating to children, so the child will receive the same information as an adult. However, in practice, when the victim is a child, all the information is read out and explained to them in a child-friendly manner to help them understand the content of the instruction. With regard to children younger than 15 years of age, a child psychologist provides assistance to the child. Given the fact that the latest amendment of the Criminal Code²⁵ has strengthened the protection of a child insofar as the special measures existing for interviewing the child do not apply only to children younger than 15 years of age but now apply to all children under 18 years of age, we can assume that the practice will reflect those changes and the assistance of a child psychologist will be provided also to children over 15 years up to 18 years of age.

Victims have the right to express their views on:

- whether they agree to a criminal prosecution²⁶;
- the right to claim damages either in criminal proceedings or through a claim in civil proceedings;
- the right to propose that evidence be produced or supplemented; the right to submit evidence;
- the right to inspect and study files;
- the right to participate in the trial and in a trial held in public concerning an appeal or guilty plea and sentencing;
- the right to express their opinion on evidence produced;
- the right to a closing speech;
- the right to appeal the claimed damage²⁷.

The information on the release of the accused is provided if the victim could be in danger, or in other cases if requested by the victim.

2.1.3 Protection from harm and protection of private and family life

The age of a child reporting a crime and the type of criminal offence is taken into account when assessing the facts of the crime and deciding upon further steps to be taken. If the victim is a child, the police officer will contact socio-legal protection institutions and social guardianship services (hereafter 'social protection services') to provide a child with the assistance of a social worker and will also contact the court to provide a child with a legal counsel. The question of whether a parent is called at this point and what measures will be taken depend on the crime concerned.

In cases where the offender is a relative of a child (e.g. in cases of domestic violence, sexual abuse or rape), the police officer will not contact the parent, as the child may have problems reporting the crime in the parents' presence. In such cases, the court will appoint a guardian who acts for the child. The court will also impose civil law restraining measures to avoid

²⁴ Provision on information about organisations providing help to victims in Slovakia also includes the name of such organisations and contact info such as a phone number or infolink. The following organisations providing help to victims exist in Slovakia and are stated in the written instruction for the injured – *Náruč, Pomoc obetiam násilia, Aliancia žien Slovenska, Pomoc ohrozeným deťom – centrum nádeje*.

²⁵ Act 204/2013 Coll. in force as of 1 August 2013.

²⁶ The victim must consent to criminal prosecution for the offences enumerated in Sec. 211 of the Criminal Procedure Code. If the child does not agree, the police or prosecutor cannot initiate criminal prosecution or must suspend the proceedings if already in progress.

²⁷ Sec. 45-49 of the Criminal Procedure Code.

situations where the child's health or development could be put at serious risk or could be affected. The child will be put temporarily into the care of social protection services (basically the local offices of Bureau of Labour, Social and Family Affairs). The presence of the social protection services' worker is provided to ensure that measures are appropriate and in favour of the child. The child reporting a crime will be asked to provide a witness statement, which in the case of children should normally be video recorded in order to avoid questioning the child in the later stages of the criminal proceedings. If the child is younger than 15 years of age, a child psychologist is called to be present when interviewing the child (see [Section 2.1.2](#) above re recent legislative changes).

The court may hold a closed session if the best interests of a child offender or child victim could be threatened by making the hearing public. In such a case, any information regarding the factual basis for excluding the public from the closed session cannot be made public²⁸.

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

There are no specific policies or measures in place on how to prevent secondary victimisation of children. However, there are some measures that aim to protect children so that they avoid or eliminate further victimisation. For example, the interview of the child is performed in a way that further interviewing is admissible only when necessary. The interview is usually video recorded so that the judge does not have to call the child to give testimony in trial. The latest amendment of the Criminal Code²⁹ has brought some changes to the evidentiary procedure, more specifically in regard to the confrontation as one of the means of evidence. In case of a witness under 18 years of age in criminal proceedings concerning criminal offenses against human dignity and the crime of human trafficking, the confrontation is admissible only exceptionally, if it is necessary for clarification of facts. The confrontation of a witness younger than 15 years is not admissible under any condition.³⁰

When interviewing the child in the pre-trial stage, prosecutors often require the police to take a special approach to prevent secondary victimisation of children, meaning that police officers will take into account the age of the child and the circumstances of the case, as well as providing children with protection of their rights and the assistance of psychologists, defence counsel etc. In addition, special rooms should be used to interview children. However, most courts are not equipped with such rooms. The court may also order to hold closed session or may order the child to leave the courtroom for a certain period of time³¹.

2.1.5 Protecting the child during interviews and when giving testimony

As mentioned previously, special provisions regulate the questioning of a child younger than 18 years of age³². Every child under 18 years of age has a legal guardian who acts for the child. The interview of a child younger than 18 years of age must be carried out by persons with life experience and professional experience in the field of youth education. The interviewer must have in mind the child's age, mental and moral development and carry out the interview in a manner to avoid further questioning. The child may be interviewed at a later stage only when necessary and in the pre-trial stage only with the consent of the prosecutor³³.

When interviewing a child younger than 18 years of age, the presence of a pedagogue, a social worker, a child psychologist or an expert is required. If the presence of a legal guardian may contribute to the proper questioning of the child, the legal guardian will be called to be present as well. The interview is usually video recorded and the child can be interviewed in the later stages only exceptionally. During court proceedings, the court may

²⁸ Sec. 249-251 of the Criminal Procedure Code.

²⁹ Act n. 204/2013 in force as of 1 August 2013.

³⁰ Sec. 125 sub. 4 of the Criminal Procedure Code.

³¹ This may be provided on the basis of the sec. 343 subsec. 3 of the Criminal Procedure Code.

³² Sec. 135 of the Criminal Procedure Code.

³³ *ibid.*

decide to hear the child's evidence by reading the minutes so that the child does not have to appear in court. A person assisting at the hearing of the child may be called to be heard at the trial to determine the accuracy and completeness of the record or to give evidence about the manner in which the hearing was conducted and about the way the child gave their testimony.

Where the suspect is a relative or person responsible for the care of the child and there is a need to repeat the hearing of a child younger than 18 years of age after the charges were brought, the next pre-trial hearing of the child may be carried out only with the consent of the child's legal guardian or appointed guardian.

In particular, the presence of a child psychologist is required when interviewing a child younger than 18 years of age. The child is questioned in a manner appropriate to their age and the language used is adjusted to the child's age. This is mainly the role of the child psychologist. It is also deemed preferable that the interview is led by a woman to make the child feel more comfortable. A legal counsel and child psychologists may also intervene³⁴.

2.1.6 Right to be heard and to participate in criminal proceedings

Victims, whether children or adults, are parties to criminal proceedings, the legislation refers to them as the injured party. Thus, they have legal standing and participate in criminal proceedings although in a limited way as opposed to the suspect.

For further details see [Section 2.1.2](#).

2.1.7 Right to legal counsel, legal assistance and representation

According to Slovak law, all children under 18 years of age are considered to have a limited capacity. Due to this limited capacity, it is the legal guardian who acts for a child in criminal proceedings. The legal guardian themselves may empower the victim-support organisation to act on behalf of the child victim³⁵.

In case a child does not have a legal guardian, or if the legal guardian cannot act for the child due to a serious reason, the court will appoint a guardian for the purposes of criminal proceedings (appointed guardian). In case the offender is a relative of the child victim, i.e. parent (e.g. in cases of domestic violence, sexual abuse or rape), the court will appoint a conflict guardian who will act for the child due to the conflict of interests.

A legal guardian of a child may also elect an attorney for the child. In cases where the victim claims compensation and does not have sufficient financial resources to cover costs of their claim, a judge for the pre-trial stage or presiding judge may appoint a legal representative free of charge. The attorney appointed by the court acts on behalf of the victim. Nevertheless, the attorney cannot withdraw the claimed title for compensation of damages without written consent of the victim.

Since the criminal procedure legislation does not specify the basis for a judge to appoint a guardian for a child victim, it is a matter of legal interpretation. The general rule is that a child should not be represented by someone whose interest may be in conflict with the interests of the child. For example, a parent should not represent a child if his/her interest is in conflict with that of the child, or if there is a conflict of interests among children of the same parent. The same rule applies to conflict of interest between adoptive parents and an adopted child, and between guardian and child.

A conflict of interest also exists if one of the parents committed a criminal offence to the detriment of the child, or if one of the siblings committed a criminal offence to the detriment of another sibling. This includes, in particular, moral offences and offences against a family member or against children and young persons. If the unmarried partner of the child's mother committed a criminal offence against the child and is prosecuted for that criminal

³⁴ Information collected through consultation with national stakeholders.

³⁵ See footnote 21.

offence, the mother would also be in a conflict of interest with respect to the interests of the child.

The appointment of a guardian *ad litem* in the context of a criminal proceeding is also necessary if, due to the absence of parents, a child victim is in the care of adults, siblings, grandparents, or other persons who were also appointed as guardians of the child. The Criminal Procedure Code does not preclude adults, siblings, grandparents, or other persons from acting as guardian *ad litem* in criminal proceedings. The decision concerning such appointment is left to the judge in the pre-trial stage and to the chairman of the panel of judges in the trial proceedings. A similar situation occurs in the absence of a guardian when a child is placed in foster care. A representative of the social protection services or a representative of an organisation providing help to victims can be appointed as guardian *ad litem* in a criminal proceeding only in cases of crimes committed against a child placed under foster care.

The victim may also be represented by a proxy. An authorised representative of the organisation providing help to the victims may act for the victim as a proxy when other conditions prescribed by law are met, e.g. a person may not be deprived of their legal capacity; during the main hearing this person may not at the same time act as a witness, expert, translator or interpreter³⁶. The proxy may submit evidence, requests and legal remedies. The proxy is also entitled to participate in all operations as the victim and has the right to submit concrete petitions for settlement or agreement with the defendant in regard to compensation of damages. Such petitions can be submitted by probation and mediation officers³⁷.

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

Victims (whether children or adults) may seek compensation from the offender for the damages caused by the criminal offence, during the criminal proceedings. However this can only be done if they claim such damages before the police officer/prosecutor ends the investigation. Such a claim may be admissible only if it is reasonable and the amount of damage for compensation is clearly asserted from the petition, and only if the victim was not successful in any parallel civil proceedings. If the court cannot decide the issue of compensation in the criminal proceedings, it will refer the victim to a civil proceeding. Compensation for the same damages may not be claimed twice.

The victim also has the right to appeal the decision on compensation³⁸. The legal guardian or appointed guardian has the same right as a victim.

According to special legislation³⁹, the victim who has suffered bodily harm or death by the crime committed has the right to compensation if the compensation was not provided by other means, i.e. criminal or civil proceedings. For more details see compensation for victims of violent crimes under the general overview section.

2.2 The child as a witness

There are no special provisions on how to deal with child witnesses involved in criminal proceedings, aside from rules on how to interview a witness younger than 18 years of age. Further details are provided under [Section 2.1.5](#).

A witness is a person who perceived the facts of a criminal offence, perpetrator or other circumstances important for criminal proceedings by their own and thus is able to give a testimony in a trial under oath. Being called to court as a witness is not a right but an

³⁶ Sec. 53 of the Criminal Procedure Code.

³⁷ Sec. 54 of the Criminal Procedure Code.

³⁸ Act No. 437/2004 Coll. on compensation for pain and compensation for loss of social assertion.

³⁹ Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes.

obligation for a citizen, according to Slovak law. However, the law sets out conditions under which a person may refuse to give testimony⁴⁰. See further details in section [2.2.2](#) below.

2.2.1 Reporting a crime

See [Section 2.1.1](#).

2.2.2 Provision of information

Witnesses, whether children or adults, must be instructed about their rights by the relevant authorities (police, prosecutor or court). There are no specific provisions relating to children, so the child will receive the same information as an adult. However, when the witness is a child, all the information is read out and explained to them in a child-friendly manner to help them understand the content of instruction. With regard to children younger than 15 years of age, a child psychologist is called to provide assistance to the child⁴¹. Given the fact that the latest amendment of the Criminal Code⁴² has strengthened the protection of a child insofar that the special measures existing for interviewing the child now apply to all children under 18 years of age, we can assume that the practice will reflect those changes and the assistance of a child psychologist will be provided also to children between 15 and 18 years of age.

The witness may refuse to give testimony if he/she is a relative of the accused in the direct line of descent, sibling, adoptive parent, adoptive child, spouse or partner; however, there are no express legislative provisions or policies concerning how a child may exercise this right. A witness is entitled to refuse to give testimony in order to prevent themselves from self-incrimination and incrimination of closely related persons, i.e. if there would be a danger of criminal prosecution of their relative in the direct line of descent, sibling, adoptive parent, adoptive child, spouse or partner or any other person in the family or similar relationship if the harm to their relative would be felt as a detriment to the witness. Furthermore, the witness has the right to refuse to give testimony if their testimony could violate confessional secrecy, or the information is subject to confidentiality entrusted to them orally or in writing as a person entrusted with pastoral care⁴³.

The testimony of a very young child witness is generally considered problematic for use as evidence because young children tend to remember facts and events differently than adults. On the other hand, a child considered to be of the age of criminal responsibility may be deemed capable to express their own views. In practice, the individual judge or prosecutor decides how to deal with the question of whether to permit a child's testimony.

2.2.3 Protection from harm and protection of private and family life

Certain measures towards protection of witnesses are available in law if the life, health or physical integrity of the witness, whether child or adult, or close persons of the witness may be put at risk due to the provision of their identification data in criminal proceedings. If such a risk exists, the witness is allowed to not provide such data. At the trial, however, the witness must provide the facts of their testimony. Materials including identification data of the witness are not put into the court's files but they must be deposited with the prosecution, or the presiding judge in the trial proceedings. Identification data are put into the file only when the threat has passed.

Before examination of the witness, whose identity must remain concealed, the police, prosecutor or the court may take necessary measures for the witness's protection, such as

⁴⁰ Sec. 130 of the Criminal Procedure Code on witnesses.

⁴¹ Information collected through consultation with national stakeholders.

⁴² Act 204/2013 Coll. in force as of 1 August 2013.

⁴³ Sec. 127 – 140 of the Criminal Procedure Code.

the change of their appearance and voice, or may interrogate the witness with the use of audio-video technical equipment⁴⁴.

The information on the fact that the suspect has been released from custody or escaped from custody, or that a convicted person was released from prison or escaped from prison is also provided if the victim could be in danger, or in other cases if requested by the victim (see [section 2.1](#) on the notion of injured person/victim).

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

See [Section 2.1.3](#).

2.2.5 Protecting the child during interviews and when giving testimony

Generally, any witness, child or adult, can be questioned only to the extent necessary for criminal proceedings. However, they can be asked additional questions to supplement the testimony or to clarify the inadequacies of their allegations. The questions should be considerate and understandable. The witness must not be asked leading questions and questions enhancing the facts to be ascertained from their testimony. Questions must not unreasonably interfere with the privacy of the witness except with the aim of identifying the motives of the accused, particularly in the case of a sick witness or witnesses who were victims of the crimes against human dignity.

The witness, who due to their age, illness, physical or mental disability, or for other serious reasons cannot attend the hearing, may be questioned through the use of audio-visual technical equipment.

As mentioned previously, the special provisions⁴⁵ on questioning a person younger than 18 years of age are further developed under [Section 2.1.5](#).

2.2.6 Right to be heard and to participate in criminal proceedings

Being called as a witness is not a right but an obligation of citizens. The law⁴⁶ sets out conditions under which a person may refuse to give testimony and the rights and obligations of witnesses when giving testimony such as circumstances under which a witness may not be questioned, the right to a legal aid, and conditions for using audio-video technical devices.

2.2.7 Right to legal counsel, legal assistance and representation

The witness may be provided with legal assistance upon their request.

As for the right to legal counsel of a witness who is the victim, see [Section 2.1.6](#). For the right to legal assistance and representation see [Section 2.1.7](#).

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

Witnesses are entitled to compensation of necessary expenses and lost wages for work or other demonstrable loss of income. The witness must claim such compensation within three days after their interview, or after it was announced that the interview will not take place, or if the witness does not quantify his/her compensation, within 15 days from the day they requested such compensation.

The amount of compensation is determined by those who summonsed the witness, and in court by the presiding judge⁴⁷.

⁴⁴ Sec. 136 subsec. 1-3 of the Criminal Procedure Code.

⁴⁵ Sec.135 of the Criminal Procedure Code.

⁴⁶ Sec. 127-140 of the Criminal Procedure Code on witnesses.

⁴⁷ Sec. 140 of the Criminal Procedure Code.

2.3 The child as a suspect/ defendant

Legal terminology refers to a child suspect or defendant as a juvenile – a person who has reached the age of 14 years old and has not reached 18 years of age and is criminally responsible. For the purpose of this report, however, the term ‘child suspect’ or ‘child offender’ will be used for children between 14 and 18 years of age who are criminally responsible. The rights of child suspects/offenders apply to children and adults to the same extent with two exceptions. A child suspect of a criminal offence must be represented by a defence legal counsel (i.e. mandatory defence) throughout criminal proceedings. Special provisions on criminal proceedings apply to child suspects⁴⁸. However, the special provisions do not apply in criminal proceedings against a child suspect if the criminal offence where committed above the age of 18 is punishable by the same or more severe punishment, or if the charges against this person were brought after they reached the age of 18 years old.

There is little difference between the suspect and the accused insofar as the accused enjoys their procedural rights to the full extent. Generally, a person is considered accused from the moment they are charged with a criminal offence until the verdict is in force. The suspect refers to a person whose personal freedom has been deprived as they are suspected of having committed a criminal offence by a police officer with the previous consent of prosecutor, or by any person if they have been detained at the time of commission of a crime and must be immediately brought to the police. The prosecutor has 48 hours to bring the charges against a child suspect or to release the child.

The framework of the right to defence in criminal proceedings is laid down by the Constitution of the Slovak Republic⁴⁹. The Criminal Procedure Code recognises the right to defence as one of the general principles of criminal proceedings⁵⁰, which is further elaborated in the provisions of the Criminal Procedure Code.

The accused has the right to comment on all the facts and evidence and to refuse to give testimony. The accused has the right in all circumstances, to submit and supply evidence in their defence, to submit petitions, requests and appeals. The accused has the right to elect a counsel and also consult them during operations carried out throughout criminal proceedings but cannot consult the defence counsel on how to answer the question during interrogation. The accused may request to be interviewed in the presence of their counsel and request their presence at actions carried out in the pre-trial stage. The accused may consult a counsel without the presence of a third party when detained in custody or in prison. At trial, the accused has the right to examine witnesses designated by them and by a defence counsel with their consent, and pose questions to witnesses. The accused may exercise their rights on their own or through a counsel⁵¹.

To secure the child’s procedural rights, a legal guardian (usually a parent or guardian mandated by a civil court) and the social protection services are also parties to the criminal proceedings and they have similar rights to the accused child. The legal guardian has the authority to act for the accused – to submit briefs, requests and legal remedies, to elect the counsel for the accused, to be present at the operations at which the accused has the right to be present, and in favour of the accused, has the right to perform these rights even against their will. The social protection services are also parties to the proceedings with separate procedural rights to the defence’s legal counsel but the services do not perform the rights on behalf of the accused child. However, social protection services may submit legal remedies in favour of the child, even against their will.

⁴⁸ Chapter VII, Sec. 337-347 of the Criminal Procedure Code.

⁴⁹ Constitution of the Slovak Republic - Act No. 460/1992 Coll. as amended, Part VII on ‘Right to Judicial and other Legal Protection’ (art. 46-50).

⁵⁰ Sec. 2 of the Criminal Procedure Code.

⁵¹ Sec. 34 of the Criminal Procedure Code.

2.3.1 Age of criminal responsibility

The age of criminal responsibility in Slovakia is 14 years old. A person below 14 years of age may not be held criminally liable⁵². There is one exemption from the general rule, in cases of sexual abuse involving a person under the age of 15. In all other cases the age of 14 is required for criminal responsibility⁵³.

A person who at the time of the crime has already reached the age of 14, but has not reached the age of 18 is referred to as a juvenile offender but for the purposes of this study such person will be referred to as a child offender. A person becomes fully criminally responsible at 18 years of age.

A child offender below the age of 15 who does not have sufficient intellectual and moral development to recognise the unlawfulness of the actor to control their actions is not held criminally responsible⁵⁴. In other words, the age of a person is relevant if the court must prove that the child was capable of recognising the unlawfulness of their act or was capable of controlling their behaviour in relation to the criminal offence. If a person aged 14 or 15 commits a criminal offence, a court must prove this fact based on an independent expert's opinion (usually a psychologist)⁵⁵. If a person has reached the age of 15, the court will do so only when there is a doubt that the child meets the conditions necessary to be deemed capable of being responsible for committing a criminal offence.

Information on child offenders under 14 years of age must be sent to prosecutors specialised in child offenders' crimes and crimes against children. In order to prevent criminal activity committed by children, prosecutors will also provide such information to children's socio-legal protection institutions and social guardianship institutions or to court. They are able to impose educational measures on children who committed an offence when under the age of 14 and who therefore cannot be held criminally liable. As a measure of last resort, prosecutors may also suggest that the court impose protective re-education orders upon them.

In criminal proceedings against children, the degree of intellectual and moral development of the child offender, their nature, circumstances and environment in which they lived and were brought up, their behaviour before and after the criminal offence, and other circumstances relevant to the choice of methods suitable to achieve their correction, particularly for the decision on whether a protective re-education order should be imposed on the child, must be assessed thoroughly. The capacity of the child in criminal proceedings is also to be assessed through reports from school, probation and mediation officers and other institutions providing care for the child or otherwise involved in the education of the child. In cases of child offenders, such an assessment must also be carried out and submitted to the court by the social protection of children and social guardianship bodies and by the municipality.

2.3.2 Provision of information

The police/prosecutor must inform the accused child about their right to defence before the first interview, in the following manner: 'as the accused you have the right to give testimony or to refuse to give testimony. Nobody has the right to force you to plead guilty. You have the right to elect a legal counsel. If you don't have resources to pay the costs of the defence, you have the right to request to have a legal counsel appointed for you. You have the right to request the presence of your legal counsel at your interrogation and the right to refuse to give testimony without their presence'⁵⁶.

Although the police/prosecutor has a legal duty to instruct the accused about their right at the first interview in the prescribed form, they are not required to provide this information in a

⁵² Sec. 22 of the Criminal Code.

⁵³ Sec. 22 of the Criminal Code.

⁵⁴ Sec. 95 of the Criminal Code.

⁵⁵ Sec. 95 of the Criminal Code and Sec. 338 of the Criminal Procedure Code.

⁵⁶ Sec. 121 subsec. 2 of the Criminal Procedure Code.

child-friendly manner. Instead the information is always provided in this manner to all suspects. The accused child must be informed about the criminal act they have been charged with and about its legal qualification.

When questioning an accused person, child or adult, and where it is deemed reasonable and appropriate to the criminal offence (usually in less serious cases), the accused person must be instructed about the possibilities and conditions for alternatives to judicial proceedings available in the criminal justice system, including conditional suspension of criminal prosecution, mediation, and agreement on guilt and punishment (i.e. plea bargaining). Whereas the conditional suspension of criminal prosecution⁵⁷ and mediation⁵⁸ are available only for less serious crimes, the agreement on guilt and punishment⁵⁹ is available for every criminal offence.

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

The accused, whether child or adult, must be instructed about their right to defence in the prescribed form. The Criminal Procedure Code does not distinguish between child and adult in this case. So, when it comes to questioning the child who has been taken into custody with respect to criminal behaviour, the child can be questioned under the rules of questioning stipulated in CPC. For more details see Section 2.3.2 above.

However, the child offender must be represented throughout the criminal proceedings and the so-called general rule of taking the best interest of the child into account must be followed. This requires contacting a legal representative immediately. If the accused child refuses to choose a legal counsel, a counsel must be appointed by the judge as the child is required to have legal representation.

The decision to charge the child with a criminal offence must be delivered to a legal guardian (usually the parent) and the social protection service.

2.3.4 Conditions for pre-trial detention/ custody

Pre-trial custody of child offenders must be a measure of last resort and the principle of proportionality must be the guiding principle when deciding upon custody. In other words, the child may only be taken into custody if the purpose of custody may not be achieved by other means – i.e. a guarantee assumed by a social organisation, the accused's promise, measures taken by the accused child's parents etc.

Several conditions apply to the custody of a child. First of all, the gathered facts must clearly indicate that an act has been committed, with elements of a criminal act, and manifest grounds for suspicion that the accused child committed that act. Furthermore, based on the behaviour of the accused child or from any other specific facts there are reasonable grounds to believe that there is a need to prevent the accused child from further criminal activity or escape, or for collusive remand in custody.

The judge, however, has the obligation to examine the justification for the accusation. The judge is obliged to examine whether facts assessed so far indicate that an act was committed that may be considered as a criminal act and whether ascertained facts indicate and justify suspicion that an arrested/accused individual has committed the criminal offence. The act must be correctly described in the decision to bring an accusation (by the police or by a prosecutor) as prerequisite to meet legal conditions. After examination of the justification for criminal, the judge must take a decision to take the accused child into custody or not.

⁵⁷ Legal conditions for conditional suspension are set forth in sec. 216-217 of the Criminal Procedure Code.

⁵⁸ Legal conditions for mediation are set forth in sec. 220_227 of the Criminal Procedure Code.

⁵⁹ Legal conditions for agreement on guilt and punishment classed as 'Special types of criminal proceedings' are set forth in sec. 331-335 of the Criminal Procedure Code.

The special law⁶⁰ regulates the rights of a person detained in custody and stipulates that a child offender must be taken into custody separately from adults. It stipulates in more detail the conditions under which a detained person may contact and meet their legal counsel. In particular, the accused child has the constitutional right to consult a legal counsel without the presence of a third person, and in such case the Director of the Institute (i.e. facility where the child is in custody) must ensure that the designated corps member can see the conversation between the accused child and defence legal counsel. The designated corps member is not, however, allowed to hear such a conversation⁶¹.

The accused child has the right to receive a visit once every three weeks for at least one hour⁶². The law does not specify the rules on the child meeting his or her relatives in greater detail.

2.3.5 Protection of private and family life

See [Section 2.1.3](#), which applies accordingly to children accused of a criminal offence.

2.3.6 Alternatives to judicial proceedings

All alternatives to criminal proceedings such as conditional suspension of criminal prosecution, victim-offender reconciliation and agreement on guilt and punishment (so-called plea bargaining) are applicable in both the pre-trial stage where the decision-making authority is the prosecutor, and in the trial-stage where the decision-making authority is the court. The legal conditions for benefiting from alternatives to judicial proceedings apply to children and adults alike.

The conditional suspension of criminal prosecution⁶³ is available for misdemeanours for which the law prescribes a maximum duration of imprisonment of five years. The prosecutor may conditionally suspend criminal prosecution with the consent of the defendant, if the defendant declares freely and seriously that (s)he committed a criminal offence for which (s)he is charged, if the defendant compensated the damages or entered into an agreement with the victim with regards to the compensation of damages. In addition such a decision must be deemed sufficient in regard to the defendant's personality and whether or not the defendant has committed previous offences and the circumstances of the case. The defendant is subject to a probationary period of between one and five years and, when appropriate, is subject to restrictions and obligations aimed at leading an upstanding life, and refraining from actions leading to the commission of criminal offences.

Reconciliation⁶⁴ is available for misdemeanours for which the law prescribes a maximum duration of imprisonment of five years. The prosecutor may approve the reconciliation and suspend criminal prosecution with the consent of both defendant and victim if the defendant declares freely and seriously that (s)he committed a criminal offence for which (s)he is charged, if the defendant compensated the damages or entered into an agreement with the victim to compensate for the damages, if the defendant deposited a designated amount of money into the account of public welfare for a specific recipient, and the amount of money is not obviously disproportionate to the seriousness of the criminal act and the decision is deemed to be sufficient to resolve the case.

The agreement about guilt and punishment⁶⁵, unlike the alternatives mentioned above, is applicable to every criminal case. The prosecutor may initiate the agreement if the investigation results in a conclusion that the act is a criminal offence committed by the accused and the gathered evidence also indicates this. In this case, the accused person

⁶⁰ Act. on Execution of Custody No. 221/2006 Coll. on execution of custody as amended.

⁶¹ Sec. 18 of the Act on execution of custody.

⁶² Sec. 46 subsec. 2 of the Act on execution of custody.

⁶³ Sec. 216-217 of the Criminal Procedure Code.

⁶⁴ Sec. 220-227 of the Criminal Procedure Code.

⁶⁵ Sec. 232-233 and sec. 331-335 of the Criminal Procedure Code.

must plead guilty. When the accused is a child, the consent of the legal guardian and the legal counsel is mandatory. If the accused pleads guilty to the full extent, the main proceeding will not take place, the court will decide about the guilt and punishment which can be reduced by one third of the prescribed sentence.

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

See Section [2.1.3](#).

2.3.8 Protecting the child during interviews and when giving testimony

General provisions apply both to child and adult suspects/defendants⁶⁶. However, special provisions on interviewing a child younger than 18 years of age apply accordingly. For more details see [Section 2.1.5](#).

It must be also noted that a child suspect/defendant is not obliged to give testimony but rather has the right to comment on all the facts given. They may not, by any means, be forced to plead guilty or to give testimony. Before the first questioning, the accused child must be instructed about their rights in the prescribed form (see [section 2.3.2](#)). The instructions are read out to them and explained, where appropriate. The accused must confirm with their signature that they understand the instruction. The accused must sign every single page of the written minutes from the interview. Instruction about the rights is part of the minutes. The legal representative only signs the last page as a person who was present at the interview. The accused may introduce any facts supporting their innocence and submit evidence of alleged facts but may be criminally responsible for a false accusation.

The accused may be allowed to check notes before answering the questions and this fact must be noted in the minutes. The testimony of the accused is usually recorded according to the dictates of interrogator in direct speech and, to the extent possible, literally. The minutes from the interview (except the minutes from the trial) must be presented to the accused and if the accused requests, the minutes must be read out for them. The accused has the right to request that the minutes be amended or corrected in accordance with their testimony of which they must be instructed as well.

2.3.9 Right to be heard and to participate in criminal proceedings

The accused person, child or adult, has the right to comment on any fact given in criminal proceedings against them. Since it is not an obligation, the accused person may refuse to give testimony and remain silent. The accused has the right to lead evidence and facts supporting the defence, to submit requests, briefs and legal remedies. Furthermore, the accused person has the right to interrogate and question the witnesses appointed by them or by the defence lawyer at court. The accused person has the right to draw attention to and submit evidence, the right to free legal assistance, or a reduction in the costs of legal assistance if (s)he does not have the necessary resources to pay the costs of legal assistance, with no requirement to reimburse the costs later. The accused person must be instructed about their rights in each stage of the criminal proceedings.

2.3.10 Right to legal counsel, legal assistance and representation

The distinction between suspect and accused person has an impact on the extension of procedural rights given to them in criminal proceedings. Suspects enjoy the right to assistance of a legal counsel to the same extent as the accused. The suspect has the right to elect and consult a legal counsel during the detention without presence of any other person and has the right to demand the presence of counsel during the questioning by the police. However, the legal counsel may not advise the suspect on how to reply. These rights apply equally to child offenders. The suspect's right to a defence legal counsel starts before the first examination.

⁶⁶ Sec. 121-124 of the Criminal Procedure Code.

In general the accused, whether child or adult, has the right to be represented by a counsel in any case from the point they are charged with a criminal offence⁶⁷. Child offenders do not however have full legal capacity. Therefore, they enjoy their right to counsel only through a parent or guardian. In case the child does not have a parent or guardian, or if the parent/guardian cannot act for the child due to a serious reason, the court must appoint the socio-legal protection and social guardianship services as guardian. The parent, guardian or appointed guardian has the authority to act for the accused – to submit briefs, requests and legal remedies, to elect the defence counsel for the accused, and to perform these rights even against the will of the accused.

A defence counsel can only be an attorney registered in the registry of attorneys kept by the Slovak Bar Association. The person acting for the child may authorise a counsel to defend the child in writing. The child must be represented by a defence counsel from the moment when the charges were brought against him/her (mandatory defence). In such cases, the costs of legal assistance are covered by the State. If the accused child is found to have the necessary resources, the right to free legal aid does not hold and the accused must reimburse the State.

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

The accused has the right in all circumstances, to submit and cater evidence in their defence, to submit petitions, requests and appeals. The accused may exercise their rights on their own or through a counsel. The accused child may exercise their rights through a legal guardian who acts for the child.

The legal guardian and the social protection service are also parties to the criminal proceedings and they have similar rights to the accused child. The legal guardian has the authority to act for the accused child – to submit briefs, requests and legal remedies, to be present at the operations at which the accused child has the right to be present, and has the right to perform their rights even against their will, acting in the interests of the accused child. Unlike a legal guardian, the social protection service does not perform the rights on behalf of the accused child. However, it may submit legal remedies in favour of the child, even against their will.

Furthermore, the social protection service must be notified about the main hearing and public hearing dealing with agreement on guilt and punishment. The representative of the social protection service has the right to submit petitions and ask questions to those being interviewed. Nevertheless, the accused child has the right to a closing speech at trial after the closing remarks of the social protection service and the legal guardian.

Other decisions such as indictment and motion for agreement on guilt and punishment are also delivered to the social protection service, the legal guardian, and possibly to other persons with whom the child lives in the same household. If the child has the appointed guardian to act for them, the indictment is delivered to the appointed guardian as well. This applies only whilst the child has not reached the age of 19 during the trial. The court decision notification (i.e. a copy of the judgment) is always delivered to the social protection service and the legal guardian and a person in the child's household.

If the legal counsel or legal guardian fails to act, the child can act for him/herself. In relation to the failure of the defence counsel as in the case of mandatory defence, the child may petition the Slovak Bar Association for disciplinary proceedings.

⁶⁷ Sec. 34 of the Criminal Procedure Code.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

There are no specific provisions for victims or offenders after judicial proceedings.

3.1.1 Provision of information

There are no specific provisions for providing information for children or adults as victims or offenders after judicial proceedings.

3.1.2 Sentencing

The sentencing of children is fully regulated by the Criminal Code with both general and special provisions applying to children⁶⁸.

The general objectives of sentencing are to protect society against crime, to punish, deter and rehabilitate. This contrasts with the special provisions relating to children whereby sentencing is primarily aimed at educating child offenders so that they become upstanding citizens who obey laws and lead an upstanding life. At the same time, it is also aimed at recovering social relations damaged by the commission of the crime and to reintegrate the child into a family and social environment. Unlike punishing adults, the Criminal Code expressly stipulates that imprisonment is a penalty of last resort (*ultima ratio*).

Slovakia has a dual system of sanctions – penalties and protective measures that can only be imposed by a court on offenders, whether child or adult, convicted in criminal proceedings. However, a limited range of sanctions can be used against child offenders.

Protective measures, in particular, are aimed at influencing a mental, moral and social development of the child and, at the same time, at protecting the child from harmful influences of sanctions and protecting society from crime.

In addition, educational measures have recently been established under Slovakian criminal law, which do not fall within the system of sanctions but are rather perceived as special measures aimed at educational purposes that are only applicable to child offenders for minor criminal offences. Unlike sanctions, educational measures may be imposed by a court when the punishment is conditionally waived or in the pre-trial proceedings. There are two types of educational measures - educational obligations and restrictions or admonition with a warning.

Legal conditions for the imposition of each sanction are prescribed by law. The choice of criminal sanctions depends considerably on the type and gravity of the criminal act. Nevertheless, a court deciding upon the sentence should always keep in mind that imprisonment is a measure of last resort and thus, it should be applied only when other measures are not sufficient to achieve re-education in an individual case.

There are several types of alternatives available for child offenders only. As mentioned above, the court will use imprisonment only in the most serious cases and in other cases it should prefer other alternatives such as a conditional sentence, a waiver of punishment or sanctions other than imprisonment – such as community service, financial penalty, activity ban, item forfeiture or expulsion. Where appropriate, the court, and in the pre-trial proceedings the prosecutor, must prefer educational measures to sanctions.

The court can decide to waive the punishment of the child offender in less serious cases (i.e. misdemeanours) and can consider the hearing of the case before the court to be sufficient to achieve the rehabilitation of the child offender when it is justified by the nature of the criminal offence and personal circumstances of the child, or if the court accepts the guarantee given

⁶⁸ The general provisions of the Criminal Code are applicable to all offenders regardless their age unless Chapter IV of the general part of the Criminal Code (with the title “Special provision on prosecution of juveniles”) does not provide otherwise.

by a trusted person involved in the rehabilitation of the child offender, who believes that no penalty needs to be imposed. The court may also do so if the child committed the offence when mentally disturbed, and so believes that simultaneously imposing protective treatment guarantees the rehabilitation of the offender more effectively than a penalty, or if the child is already subject to protective or educational measures.

The court can decide to conditionally waive punishment under the same conditions but, at the same time, considers it necessary to supervise the child's behaviour. For this purpose, the judge can decide on a probationary period for up to one year. During the probationary period, the court can also impose some restrictions and/or obligations in order to re-educate the child. As a rule, the court must also order compensation for damages. The child whose punishment has been waived or conditionally waived must be regarded as not convicted.

Sanctions applicable to child offenders

The Criminal Code establishes two types of sanctions available against offenders - penalties and protective measures. The Criminal Code limits imposition of certain penalties and protective measures on child offenders that are deemed to be harsh and unnecessary to achieve the goals of punishment.

The following penalties are available: imprisonment, community service (under Slovakian Criminal Code known as the *penalty of compulsory work*), activity ban, item forfeiture, financial penalty and expulsion. As opposed to adults, home detention, property forfeiture, prohibition of stay, loss of honorary titles and awards, loss of military and other ranks do not apply.

The maximum rate of each penalty is considerably reduced when sentencing a child offender.

A court may, for an offence punishable by imprisonment of up to five years, impose a community service between 40 and 150 hours, as opposed to adults where the maximum rate is 300 hours. In regard to community service, a special law on the execution of a penalty of compulsory work⁶⁹ contains more provisions as to its execution, e.g. the character of work activities which may be imposed, concrete tasks of probation and the mediation officers supervising the performance of imposed work activities etc. There is no special provision regulating the day-limit of community service but the convicted child is obliged to perform the minimum of 20 hours within one month.

The financial penalty ranges from 30 euros to 16,590 euros as opposed to adults where it ranges from 160 euros to 331,930 euros. When imposing a financial penalty, the court takes into consideration the personal and financial circumstances of the child offender and may also allow payment in instalments. In the verdict, the court must impose a subsidiary imprisonment of up to 1 year in case of non-payment. There is one condition in relation to imposition of this penalty that applies to child offenders only which states that the court should only impose a financial penalty on a child offender when they are gainfully employed.

An activity ban of 1 to 5 years may be imposed on child offenders. However, the court may not impose such a penalty if it interferes with the vocational qualification training of the child.

Item forfeiture can be ordered against child or adult offenders under the same conditions. The court must impose the forfeiture of any item belonging to the child offender (exclusively) if such an item was used for committing a crime, was intended to be used for committing the crime, was obtained by committing the crime or obtained as a reward for committing the crime, or was given to the offender for the item which (s)/he obtained by committing the crime or obtained as a reward for committing the crime.

The court may impose the sentence of expulsion from the territory of the Slovak Republic on any offender who is not a national of the Slovak Republic, not a citizen of another member state of the European Union, nor a citizen of the contractual state of the Agreement creating

⁶⁹ Act No. 550/2005 Coll. on execution of penalty of compulsory work.

the European Economic Area, nor a person who has been granted asylum status for the period of one year up to five years with respect to child offenders (as opposed to adults where the upper limit is 15 years). In addition, other legal conditions must be met such as if the nationality or the state, from which the child offender has come to the Slovak Republic, cannot be established; if the child offender, who in the receiving state, runs the real risk that their life and personal freedom would be endangered due to their race, complexion, ethnicity, religion, nationality, membership of a particular social group or political opinion; if the child offender is to be expelled to the state wherein the death penalty has been imposed on him/her, or where such a penalty is supposed to be imposed in the pending trial, or who runs the risk of being subjected to torture upon his/her return to that particular state.

There are several protective measures available in criminal law - protective treatment order, protective re-education order, item confiscation, detention and protective supervision order. However, the only protective measure that can be imposed on child offenders is protective re-education. The court may impose protective re-education if the child has not been provided appropriate upbringing in the family where (s)he lives, if the previous upbringing of the child was neglected, or if the environment where the child lives does not give a guarantee of their proper upbringing.

The protective re-education must be provided in special re-educational institutions or in a professional foster family, or in a medical institution if appropriate. Protective re-education should be provided for as long as it is required to attain its purpose, but not after the inmate has reached 18 years of age; the court may extend protective re-education until the age of 19 if this is in the interest of the inmate.

Protective re-education is also the only measure that can be applied to a person who is not criminally responsible. If a person over 12 and under 14 years of age committed an offence, for which the Criminal Code permits life imprisonment, the court may impose protective re-education through civil proceedings upon a motion filed by a prosecutor; the court may do the same also when it is necessary to ensure proper re-education of a person under 14 years of age who committed an act, which is otherwise considered a criminal offence.

Educational measures

As already mentioned above, educational measures represent a completely new element in the legal regulation related to child offenders under Slovakian criminal law. Such measures may be imposed in two situations - when a court conditionally waives the punishment and at the same time imposes some of the educational measures prescribed by law, or such measures may be also imposed in the pre-trial stage by a prosecutor with the consent of the accused.

The basic feature of such measures is that they do not seek to punish child offenders. On the contrary, they seek to avoid the harmful and negative effect of possible sanctions imposed in criminal proceedings and so should serve as a warning to child offenders and aim to educate them.

There are two types of educational measures - educational obligations and restrictions and admonition with a warning.

The range of educational obligations and restrictions includes various obligations:

- a. to submit to probationary supervision carried out by a probation and mediation officer;
- b. to live with a parent or other adult who is responsible for the upbringing of the child offender;
- c. to exert efforts to settle with the injured party;
- d. to compensate for the damages inflicted by the criminal offence, or otherwise remedy the consequences of the criminal offence;
- e. to perform community service work without receiving remuneration in their free time;

- f. to undergo treatment for addiction to harmful habit-forming substances;
- g. to undergo, in their free time, a social skills training programme, psychological counselling, psychotherapeutic, educational, in-service, requalification or other adequate programme, other than a probationary programme, designed for the development of the social skills and personality of the child.

Certain types of community service work may be imposed on the child offender only if it does not interfere with their vocational qualification training, in particular with the fulfilment of the obligations resulting from the curricula of their educational institution, or with the performance of their employment or occupation, while it may not be more than 4 hours a day, 18 hours a week, and may not exceed a total of 60 hours.

The court and, in the pre-trial stage, the prosecutor, can also reprimand the child offender and give them a warning. When imposing this measure, the legal representative of the child offender must be present as well. The child offender will be warned and informed about the possible sanctions that might be imposed on them in the future if they commit further crimes.

3.1.3 Deprivation of liberty

Imprisonment

Courts may impose an imprisonment sentence on the child offender only under the condition that, given the circumstances of the case, personality of the child or as the measures previously imposed apparently have not achieved the purpose of the punishment, imposition of imprisonment, which is the measure of the last resort, is therefore required.

The maximum length of imprisonment for adults cannot exceed 25 years for any offence. For child offenders, the length of imprisonment is reduced to one half of what would be imposed for a similar offence committed by an adult. Nevertheless, the maximum length of imprisonment cannot exceed 7 years and the minimum length cannot exceed two years. The only exemption from this rule is the situation when a child commits a particularly serious crime, which could be otherwise punishable by imprisonment with the minimum rate exceeding 10 years. In such a case, a court may decide to impose imprisonment from 7 up to 15 years. Imposition of such punishment also requires that the gravity of such a crime is extraordinarily high, i.e. the damage caused was especially serious and the motive of the crime as well as the mode of commission of the criminal offence was despicable.

The Criminal Code deals partially with the serving of imprisonment. Children under 18 years of age must serve an imprisonment sentence in the juvenile correctional facility, located in Sučany⁷⁰. The court may decide that even an offender over 18 years of age should serve an imprisonment sentence in a juvenile correctional facility but it should simultaneously take into consideration the length of imprisonment and the degree and character of disturbance of the offender⁷¹. The execution of the imprisonment is regulated by the special law on execution of imprisonment, which also includes the section related to child offenders⁷².

With regard to personal characteristics, level of mental abilities and social reintegration of the child offender, their prognosis is classified into groups, which are applied in different forms and methods of treatment. The determination of a child offender treatment programme should ensure that it always follows professional qualifications, preparation for independent living, and especially avoid the adverse impact of the prison environment. In preparing the child for future employment and assigning work to institute collaboration with the parents or legal guardians of the child offender. The child offender is required to participate in the activities of the treatment to which they are assigned. To allow for the participation of a child in education, cultural and other educational activities, the director of the institute may permit the child to leave the institution for no more than 10 hours a day, even unaccompanied. Disciplinary and solitary confinement for up to 10 days and measures limiting where a child

⁷⁰ [Institute for imprisonment for juveniles of Sucany.](#)

⁷¹ Sec. 117 subsec. 5 of the Criminal Code.

⁷² Sec. 69-73 of the Act. No 475/2005 Coll. on the execution of imprisonment as amended.

may go for a maximum period of 14 days may also be imposed on child offenders. If such a disciplinary measure is re-imposed, the execution of the re-imposed disciplinary measure may not begin earlier than 10 days after the execution of previous ones. This does not apply if the child offender committed a disciplinary offence in the performance of any of the disciplinary sanctions imposed on him/her. In such a case, the child offender may undergo disciplinary punishment without interruption for more than 14 days. Child offenders enrolled full-time receive disciplinary solitary confinement or restrictions on movements. Performance of disciplinary sanctions may conditionally suspend the child offender's probation period by up to 3 months.

The prisoner, whether child or adult, has the right to receive visits at the time specified by the director of the institute where the sentence of imprisonment is served, at least once a month for a period of two hours.

In order to meet the goals of the prison treatment programme when there is an urgent family or other serious reason, the director of the institute or the designated member of the prison service may allow for more frequent visits.

In cases where there are parents and children in different institutes, the directors of those institutes may, by mutual agreement, allow visits among prisoners or between accused and sentenced inmates if such inmates have monetary resources to carry out the visit and if they agree upon such a visit. At the same time, the directors agree on whether the visit is to be carried out with direct contact or without contact.

Visits usually take place in the premises designated for such purposes. During the visit, it is prohibited to transmit or receive funds, correspondence, or take other things. This does not apply to a change of clothes and shoes for the prisoner.

Upon request, a close relative of the convicted person and his/her counsel may request a report on the behaviour of a prisoner.⁷³

In addition, a child may be placed in an adult prison. The court makes the decision on where the child is placed based on various factors. If the child offender has reached the age of 18 when the court decides on their guilt and the penalty that will be imposed, the child offender will serve the sentence in an adult offenders' institute. The same decision has to be made when the child offender turns 18 after the sentencing judgment comes into effect, but before the child offender attends the prison to serve the sentence.

If the child offender reaches the age of 18 while serving the sentence in the prison for child offenders, the court decides whether they may stay or if they should be transferred to an adult prison. The court may also decide about the transfer of the child offender to an adult prison in cases where the offender reached the age of 18 while serving his/her sentence in the prison for child offenders but is constantly breaking the detention rules or if he/she committed a new crime.

When dealing with the issue of imprisonment one should also mention the possibility of a conditional sentence imposed on a child offender and the possibility of the suspension of serving the sentence of imprisonment on a child offender under the supervision of a probation officer. These options are applicable to all offenders regardless of their age and there are few differences between them.

3.1.4 Criminal records

Unlike with adult criminal records, it is possible for a child's criminal record to be completely deleted and the child to be regarded as if never having been convicted. Deletion can occur in a range of circumstances. If the child offender was sentenced to imprisonment of no more than one year, or such terms of imprisonment have been, upon the decision of the President of the Slovak Republic, mitigated or pardoned, deletion applies from the date on which the execution of the sentence was completed, or the date on which such a sentence or the

⁷³ Sec. 24 of the Act 475/2005 on the execution of imprisonment.

remainder thereof was waived upon a final and conclusive decision. With regard to situations other than those mentioned above, the court will decide upon the deletion of the sentence after the release of the child offender from prison while taking into account the conduct of the child offender in prison, and if the punishment has been mitigated, upon the decision of the President of the Slovak Republic, after the child offender has been released from serving the mitigated imprisonment sentence, if the court rules that the child offender, whose imprisonment sentence has been suspended, or whose imprisonment sentence has been suspended with probationary supervision, or who was conditionally released from prison, has behaved in a proper manner.

If a pecuniary penalty was imposed, it applies from the date on which the execution of the sentence was completed, or the date on which such a sentence or the remainder thereof was waived upon a final and conclusive decision. If the sentence of item forfeiture was imposed, it applies from the date on which the sentence was executed. If a community service or activity ban was imposed, it applies from the date on which the execution of the sentence was completed, or the date on which such a sentence or the remainder thereof was waived upon a final and conclusive decision. If an expulsion was imposed, it applies upon the expiration of the period for which the sentence was imposed, if served properly.

4 Strengths and potential gaps

Several strengths and potential gaps of the Slovak approach to children involved in criminal proceedings have been identified. Issues relating to children are not dealt with separately and Slovakia does not have a specialised system of juvenile justice. With the exception of the specialisation of prosecutors on crimes committed by children and crimes against children, the authorities involved in the criminal justice system are not specialised in dealing with child offenders, victims or witnesses. The lack of specialisation at all levels of the criminal justice system and lack of specific training does not allow such authorities to prepare extensively to deal with children and to take proper account of their age and specificities of their behaviour and mental development.

Victims in general, and children in particular, do not enjoy the same rights in criminal proceedings as other parties and instead act as a secondary party in criminal proceedings with limited impact on them. Compensation mechanisms for victims of crimes do not cover all crimes but rather only violent crimes. Furthermore, whilst there are a number of measures relating to the provision of information, in practice the information about the right to claim damages directly in criminal proceedings is often not properly provided⁷⁴. In addition, only a few courts are equipped with specialised rooms for children's interviews and no specialised waiting rooms for children who are victims of crimes exist.

Social protection services have been given an important role in supporting children and their families involved in judicial proceedings. However, in practice this does not necessarily occur since main proceedings may be held without their presence (they must be notified about the main proceedings but their presence is not obligatory) and they usually do not appear at court. Furthermore, social protection services cannot cover all the cases due to limited resources and capacities.

Child suspects benefit from the mandatory assistance of a defence lawyer. In addition, the level of children's maturity and development is examined in order to deepen the individualised approach to the criminal case of the child. The recent introduction of criminal sanctions and measures applying to children, together with the establishment of a probation and mediation service can be considered to have strengthened the Slovak juvenile system, in addition to the specialisation of prosecutors on crimes committed by child offenders and crimes against children.

⁷⁴ Information provided during the interview with the district judge JUDr. Denisa Meszárošová.

Conclusions

The system of protection of children involved in criminal proceedings has existed in its present form since the adoption of new criminal codes in 2006. Despite the wide discussions concerning the possibility of an autonomous juvenile justice system, Slovakia did not adopt such an approach but maintained the existing system of children being dealt with in the adult criminal justice system. However, there have been several significant changes made to the system, which contributed to a better consideration of children involved in criminal proceedings, such as the modification of the age of criminal responsibility and the requirement to examine the level of their maturity and development in order to deepen the individualised approach to the criminal case of a child.

The introduction of new criminal sanctions and measures applying to children has been seen as a positive change together with the establishment of a probation and mediation service. Furthermore, the specialisation of prosecutors on crimes committed by child offenders and crimes against children, established in 2008, and changes in legislation and organisation of the social protection system have been of great importance. These major changes have resulted in an improvement in the juvenile justice system.

Despite the positive shift towards the protection of children involved in criminal proceedings, the system has several gaps in ensuring full protection and assistance to children involved in the criminal justice system whether they are suspects, defendants, offenders, witnesses or victims. There is a lack of a specialised justice system to deal with children, starting with the training of the police up to the courts to prepare them for dealing with children and to ensure the child's age and specificities of their behaviour and mental development are taken into account. Specialised court panels would be a valuable addition to the criminal justice system.

Victims in general, and children in particular, do not enjoy the same rights in criminal proceedings as other parties and rather act as a secondary party in criminal proceedings with limited impact on those proceedings. Furthermore, whilst social protection services should play an important role in protecting children involved in criminal proceedings, such services are often not involved in proceedings in practice and they are not able to fulfil their tasks properly due to a lack of resources and technical equipment.

The issue of children involved in criminal proceedings is a complex issue that requires conceptual changes in its approach. The changes made to the Slovak system are one step towards ensuring the protection of children in judicial proceedings, but further changes would be needed to ensure the full protection and adequate handling of children in judicial proceedings in line with the Council of Europe Guidelines on child-friendly justice.

Annex – Legislation reviewed during the writing of this report

- Internal order of General Prosecutor No. 6/2008
- Act. No. 221/2006 Coll. on Execution of Custody as amended
- Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes as amended
- Act No. 550/2005 Coll. on Execution of Penalty of Compulsory Work as amended
- Act. No 475/2005 Coll. on the Execution of Imprisonment as amended
- Act No. 305/2005 Coll. on Socio-Legal Protection of Children and Social Guardianship as amended
- Criminal Procedure Code - Act no.301/2005 Coll. as amended
- Criminal Code - Act. No 300/2005 Coll. as amended
- Act No. 757/2004 Coll. on Courts as amended
- Act no. 365/2004 Coll. on Equal treatment as amended
- Act. No 564/2001 on Public Defender of Rights as amended
- The Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings and Council Directive 2004/80/EC of 29 April 2004 related to compensation to crime victims. While the aforementioned Framework Decision has been transposed into the Criminal Procedure, the Directive on compensation to crime victims found its expression in the Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes
- Act no. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights as amended
- Constitution of the Slovak Republic - Act no. 460/1992 Coll. as amended