

Serving a Juvenile Prison Sentence in the Republic of Srpska*

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All three laws on juveniles in Bosnia and Herzegovina (i.e., the laws on the protection and treatment of children and minors in criminal proceedings of the Republic of Srpska, the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina) prescribe a completely identical system of alternative measures and criminal sanctions applied to juvenile perpetrators of criminal offences in criminal proceedings. Consequently, this system consists of: a) alternative measures, i.e.: 1) police reprimands and 2) educational recommendations and b) criminal sanctions for juvenile perpetrators of criminal offences, i.e.: 1) educational measures, 2) security measures and c) juvenile prison. Juvenile prison is the only punishment within that system and certainly the most severe criminal sanction prescribed by law exclusively for older juvenile perpetrators of the most serious criminal offences. With the provisions of the Law on Protection and Treatment of Children and Minors in Criminal Proceedings of the Republic of Srpska, additional rules on the execution of juvenile prison sentences are also prescribed by the Rulebook on the organisation of work and life of minors and young adults serving sentences in juvenile prisons. This paper will discuss the execution of juvenile prison sentences in the Republic of Srpska.

KEYWORDS: juvenile perpetrator of criminal offence / criminal sanctions for juveniles / execution of juvenile prison sentence

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Introduction

All three laws on juveniles in Bosnia and Herzegovina, or more precisely and correctly, in all three laws regulating the protection and treatment of children and minors in criminal proceedings³ (it should be noted that each of these laws has restrictions in territorial application: to the Republic of Srpska, the Federation of Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina) entitled “Measures, educational recommendations and criminal sanctions undertaken against minors” prescribe a system of alternative measures, i.e. criminal sanctions applied to minors who have broken the law. The above mentioned system consists of: a) alternative measures, i.e.: 1) police reprimands and 2) educational recommendations and b) criminal sanctions for minor perpetrators of criminal offences, i.e.: 1) educational measures, 2) security measures and c) juvenile prison.

Juvenile prison sentence⁴ is the only and certainly the most severe criminal sanction prescribed by juvenile laws exclusively for older juvenile perpetrators of the most serious criminal offences (Mitrović & Grbić-Pavlović, 2012, pp. 279–290). It is a special type of punishment i.e., depriving an individual of freedom, which consists of depriving an older juvenile perpetrator of a serious criminal offence of their freedom of movement for a period determined by the court decision and placing them in a specific penitentiary institution (Simović et al., 2013, pp. 244–245).

The purpose of imposing this sentence in the criminal sanctions system prescribed for minors referred to in Article 31 Paragraph 2 of the Law on Protection and Treatment of Children and Minors in Criminal Proceedings of the Republic of Srpska (hereinafter: LOJ RS) is to exert greater influence on minor perpetrators of criminal offences so that they do not commit criminal acts in the future, as well as to impact other minors in order to prevent them from committing criminal offences.

³ In terms of time, the Law on the protection and treatment of children and minors in criminal proceedings was first adopted in the Republic of Srpska at the beginning of 2010, and started to be applied on January 1, 2011 (Official Gazette of the Republic of Srpska, number 13/2010, amended - Official Gazette of the Republic of Srpska, no. 61/2013 and 68/2020), then in the Brčko District, where it was adopted in November 2011, and started to be applied towards the end of 2012 (Official Gazette of the Brčko District of Bosnia and Herzegovina, number 44/2011), and finally in the Federation of Bosnia and Herzegovina, where it was adopted in 2014, with implementation starting in 2015 (Official Gazette of the Federation of Bosnia and Herzegovina, number 7/2014, amended - Official Gazette Federation of Bosnia and Herzegovina, number 74/2020).

⁴ This sentence is prescribed by the criminal legislation of the Federation of BiH, Brčko District of BiH, Republic of Serbia, Republic of North Macedonia, Russian Federation, Republic of Slovenia, Republic of Montenegro, Republic of Croatia, Republic of Bulgaria and a number of other modern countries.

According to the letter of the law, a juvenile prison sentence can be imposed only on a criminally responsible older juvenile who has committed a criminal offence for which a prison sentence exceeding five years is prescribed, and due to the serious consequences of the offence and the high degree of criminal responsibility of the juvenile, imposing an educational measure would not be justifiable (Selman et al., 2012, p. 164).

The duration of the juvenile prison sentence is also determined by law, and according to the LOJ RS, this sentence of deprivation of freedom, imposed on a juvenile perpetrator of a criminal offence, cannot, as a rule, be shorter than six months or longer than five years (with one exception), and it is imposed in full-year or month-long terms (Mitrović, 2018, pp. 199–213). Namely, if an older juvenile offender commits a criminal offence punishable by life imprisonment (since 2022, the previous long prison sentence has been replaced by life imprisonment in the Republic of Srpska), or if there are at least two criminal offences for which a prison sentence exceeding ten years is prescribed, the juvenile prison term can be up to ten years (Selman et al., 2012, p. 164).

At the same time, the legislator prescribes in the provisions of Article 51 of the LOJ RS another restriction regarding the duration of this sentence according to which, when determining this sentence for a criminal offence to an older juvenile, the court cannot impose a juvenile prison sentence longer than the prison sentence prescribed for that criminal offence, however the court is not bound by the minimum prescribed measure of that punishment, taking into consideration all the circumstances that influence the punishment to be lower or higher, in accordance with the provisions of Article 52 para. 1 and 4 of the Criminal Code of the Republic of Srpska, especially taking into account the degree of maturity of the minor and the time required for their upbringing and professional training (Selman et al., 2010, pp. 152–154).

Juvenile prison sentences are executed in a special penitentiary institution for juveniles, which cannot have any contact with the penitentiary institution for adults (Selman et al., 2012, p. 164) (Mitrović, 2018, pp. 199–213). Also, juvenile prison sentences imposed on persons of the female sex are executed in a special penal juvenile institution for girls or in a special department of a penal institution for juveniles (Selman et al., 2010, pp. 152–154).

Convicted juveniles who become of age during the execution of their juvenile prison sentence continue to reside in a juvenile institution or in a department for young adults, except when their social reintegration would have a greater effect if they were to be placed in an institution for adults (Mitrović, 2018, pp. 199–213; Selman et al., 2012, p. 164). More detailed provisions on the organisation and

method of execution of juvenile prison sentences are prescribed by the Minister of Justice in a special rulebook⁵.

Execution of Criminal Sanctions of an Institutional Character in the Republic of Srpska

Institutions in which criminal sanctions of an institutional nature are executed in the Republic of Srpska are: Juvenile Prison East Sarajevo⁶ and the Correctional Centre at Banja Luka Penitentiary⁷.

The execution of institutional juvenile criminal sanctions in the Republic of Srpska is based, in addition to the already mentioned so-called juvenile criminal law, i.e., LOJ RS as the primary source, on the application of a range of other general principles and institutes of criminal law (substantive, procedural and executive), certainly under the condition that they do not contradict the above mentioned law on juveniles (Mitrović, 2018, pp. 199–213). Therefore, the normative basis for regulating the criminal status of minors in the Republic of Srpska is the Criminal Code of the Republic of Srpska⁸, followed by the Law on Criminal Procedure of the Republic of Srpska⁹ and the Law on the Execution of Criminal and Misdemeanour Sanctions of the Republic of Srpska¹⁰.

The following by-laws are also especially significant¹¹: Rulebook on the application of educational measures of special obligations towards juvenile perpetrators of criminal offences¹², Rulebook on the application of educational

⁵ Rulebook on the internal organisation and systematization of workplaces of the East Sarajevo Penitentiary, Official Gazette of the Republic of Srpska, number 15/2024.

⁶ Per Article 9 of the Rulebook on the internal organisation and systematization of workplaces of the East Sarajevo Penitentiary, Official Gazette of the Republic of Srpska, number 15/2024, the East Sarajevo Penitentiary has a special Department for the execution of sentences for minors, i.e. Juvenile Prison Department.

⁷ In the second entity, i.e. the Federation of Bosnia and Herzegovina, the number of these institutions in which criminal sanctions of an institutional or institutional nature are executed is somewhat higher, and they are: Public Institution Institution for the Education of Male Children and Youth Sarajevo, Cantonal Public Institution Disciplinary Centre for Juveniles Sarajevo, Educational Centre of Tuzla Canton, Detention Unit of the Sarajevo Penitentiary and the Educational-Correctional Center in Orašje.

⁸ Official Gazette of the Republic of Srpska, no. 64/2017; 104/2018 - decision of the Constitutional Court of the Republic of Srpska; 15/2021; 89/2021; 73/2023 and Official Gazette of BiH, number 9/2024 – decision of the Constitutional Court of Bosnia and Herzegovina.

⁹ Official Gazette of the Republic of Srpska, no. 53/2012; 91/2017; 66/2018 and 15/2021.

¹⁰ Official Gazette of the Republic of Srpska, no. 63/2018 and 55/2023.

¹¹ In the Federation of BiH those are the following acts: Regulation on the application of educational recommendations to minors, Rulebook on the disciplinary responsibility of juveniles undergoing institutional educational measures or serving a juvenile prison sentence, Rulebook on the application of educational measures of special obligations to juvenile offenders and others.

¹² Official Gazette of the Republic of Srpska, no. 101/2010.

recommendations to perpetrators of criminal offences¹³, Rulebook on the disciplinary responsibility of juveniles serving prison educational measures and juvenile prison sentences¹⁴, Rulebook on the organisation of work and life of minors and young adults serving juvenile prison sentences¹⁵, Rulebook on criminal records¹⁶, Instructions on keeping the records of imposed educational measures¹⁷, Regulation on the application of educational recommendations for minors¹⁸ and the Education programme on acquiring special knowledge and continuous professional training and improvement of persons who work in the areas of youth delinquency and criminal and legal protection of children and minors¹⁹ (Mitrović, 2018, pp. 199–213).

The Rulebook on the organisation of work and life of minors and young adults serving juvenile prison sentences (hereinafter referred to as: Rulebook on the organisation of work) is especially important for the contents of this paper).

Execution of a Juvenile Prison Sentence in the Republic of Srpska

The most important features of juvenile prison sentences in the Republic of Srpska refer to the following:

1) Corresponding application of the provisions of the Law on Protection and Treatment of Children and Minors in Criminal Proceedings and the Law on Execution of Criminal and Misdemeanour Sanctions of the Republic of Srpska

Per the provisions of paragraph 1 of Article 178 of LOJ RS, provisions of this law related to the execution of prison educational measures are applied during the execution of a juvenile prison sentence on the issues of admission of minors to serve a juvenile prison sentence, the rights of minors, benefits, disciplinary offences, disciplinary procedures and measures, the prohibition of carrying and using weapons and restrictions regarding the use of force and coercion, visiting a juvenile individual in a penitentiary institution for juveniles, suspension of the execution of a juvenile prison sentence and postponement of the execution of a juvenile prison sentence. It is a completely understandable and logical legal solution guaranteeing equal criminal-legal status of these individuals within the system of penitentiary institutions in the Republic of Srpska, as well as the equality of all people before the law (Simović et al, 2021, pp. 356–357). On the other hand, and according to paragraph 2 of the same provision, the provisions of

¹³ Official Gazette of the Republic of Srpska, no. 101/2010 and 52/2015.

¹⁴ Official Gazette of the Republic of Srpska, no. 101/2010.

¹⁵ Official Gazette of the Republic of Srpska, no. 52/2015.

¹⁶ Official Gazette of the Republic of Srpska, no. 6/2015.

¹⁷ Official Gazette of the Republic of Srpska, no. 66/2012.

¹⁸ Official Gazette of the Republic of Srpska, no. 10/2010.

¹⁹ Official Gazette of the Republic of Srpska, no. 101/2010.

the Law on the Execution of Criminal and Misdemeanour Sanctions of the Republic of Srpska are applied accordingly to other issues related to the execution of juvenile prison sentences, which otherwise regulate the manner and procedure of the execution of prison sentences imposed on adult offenders (Simović et al, 2021, pp. 356–357), provided that they do not contradict the provisions of the Law on Protection and Treatment of Children and Minors in Criminal Procedure of the Republic of Srpska (Mitrović, 2018, pp. 199–213).

2) Separate institution for execution – Separate penitentiary-correctional institutions

The Law on Protection and Treatment of Children and Minors in Criminal Procedure of the Republic of Srpska prescribes that an imposed juvenile prison sanction is to be executed in a separate penitentiary-correctional juvenile institution, meaning there is no alternatives regarding the selection of the institution where this sentence may be served (Simović et al., 2021, p. 352). It is currently the only institution established for minor boys and girls within the penitentiary system of the Republic of Srpska²⁰, completely separate from the penitentiary-correctional institution where adult individuals (of age) serve their prison sentences (Article 175 LOJ RS)²¹. Under the same conditions, young adults sentenced to juvenile prison are placed in a special department of this institution, as well as minors who become of age during the execution of their juvenile prison sentences. Simultaneously, law on juveniles in the Republic of Srpska expressly stipulates that persons sentenced to juvenile prison sentences, serve them, as a rule, together (therefore, in groups²²). On the other hand, when required by the

²⁰ According to the data from the Special report on the situation in institutions where child offenders are placed, the organisational structure of the institution consists of five services: security service, treatment service, economic instructor service, health service as well as service for legal, financial and joint affairs. The current profile of professional staff in the institution: the head of the East Sarajevo Juvenile Prison Department, the head of treatment, two educators, a bachelor of pedagogy, a psychologist, a social worker and a bachelor of law.

²¹ Per provisions of Article 241 of the Law on Execution of Criminal and Misdemeanor Sanctions of the Republic of Srpska, it is prescribed: Until the establishment and start of operation of penal and correctional institutions for the execution of juvenile prison sentences for male convicted individuals, juvenile prison sentences for female convicted individuals, penal and correctional institutions for serving the sentence prisons for female convicted individuals, correctional homes for the execution of educational measures, referral to a correctional home for male juveniles and a correctional home for female juveniles, these sanctions are implemented in special departments of penal institutions, namely: 1) juvenile prison sentence for male convicted individuals in the East Sarajevo Penitentiary, 2) juvenile prison sentence for female convicted individuals in the East Sarajevo Penitentiary, 3) prison sentence for female convicted individuals in the East Sarajevo Penitentiary, 4) educational referral measure to the correctional home for female juveniles in the East Sarajevo Penitentiary and 5) the educational measure of referral to the correctional home for male juveniles in the Correctional Institution in Banja Luka.

²² Group or collective serving of a prison sentence, i.e. collective execution of a prison sentence - prisoners, i.e. convicted persons, as a rule, serve a prison sentence as a group, or collectively. Only exceptionally, i.e. when required due to security reasons, health status, personal characteristics of

reasons prescribed in this law, such as, for example, health of a convicted person, the need to ensure security or the need to maintain order and discipline in the penitentiary-correctional institution – the convicted persons may serve the imposed juvenile prison sentence separately (Simović et al., 2021, p. 352). Juvenile prison sentences imposed on the persons of female sex are enforced in a separate, i.e., special department of the juvenile penitentiary-correctional institution²³.

3) Treatment of convicted juveniles

In accordance with the provisions of para. 2 and 3 of Article 150 of LOJ RS and the provisions of Article 6 of the Rulebook on the organisation of work, upon admission to a penitentiary-correctional institution, every juvenile shall be informed of their rights and obligations in a language and in a manner that they understand, and about the provisions of the Rulebook, which will be available to all juveniles during their stay in the institution.

The obligation to prepare an individual, i.e. a separate treatment programme for a convicted juvenile is prescribed by the provisions of Article 165 Paragraph 2 of the LCP RS. The proposal of this programme, according to the provisions of Article 95 of the Rulebook on the organisation of work, based on the results from the review of the documentation and personality of the minor from the

the prisoner or when provided by law, the decision of the head of the Institution may determine that the convicted individual will serve his prison sentence separately from other prisoners. Convicted men and women, according to the law, serve their prison sentences separately (in the same way, detained persons are separated from convicted persons, i.e. adults from juvenile convicts) (more in: Lj. Mitrović - P. Dunjić: Execution of prison sentences in the Republic of Srpska - principles of execution and institutions where prison sentences are executed, Scientific and professional magazine in the field of legal sciences Yearbook of the Faculty of Legal Sciences of the Pan-European University APEIRON in Banja Luka, no. 12, pp. 66-78; July 2022).

²³ In the Republic of Srpska, juvenile prison sentences are executed in the East Sarajevo Juvenile Prison, located within the East Sarajevo Penitentiary. In the system of execution of criminal sanctions in the Republic of Srpska, the Juvenile Prison Department has existed since October 2008 and functions as a special department within the East Sarajevo Penitentiary. It is the only institution for the execution of juvenile prison sentences in the Republic of Srpska. Juveniles of both sexes who are sentenced to juvenile prison by competent courts in the territory of the Republic of Srpska are sent to this institution. The planned capacity of the institution is 20 convicted individuals.

The situation in the Juvenile Prison in East Sarajevo was presented in the publication entitled: Analysis of the condition in institutions where juvenile offenders in Bosnia and Herzegovina are placed. This publication was created in the first half of 2016, as a result of cooperation between the Human Rights Ombudsman Institution of Bosnia and Herzegovina and UNICEF in Bosnia and Herzegovina. The majority of the author's team that worked on its development was made up of representatives of the Ombudsman Institution, i.e. practicing attorneys from the Children's Rights Department of this institution. After preparing the Analysis of the situation, in 2018, the Ombudsman of BiH also prepared a Report on the implementation of recommendations from the document entitled: Analysis of the condition in institutions where juvenile offenders in Bosnia and Herzegovina are placed, and then in 2021, the Special Report on conditions in institutions where child offenders are placed.

psychological, pedagogical, social and safety point of view, is made by an expert team of the admissions department of the institution (which must include a doctor, a special pedagogue, a psychologist and a social worker). Afterwards, the treatment programme will be approved by the head of the penitentiary-correctional institution in an official schedule. The content of individual plans, i.e. action or treatment programmes, is prescribed by the Rulebook on the organisation of work, so this important document includes the treatment goals²⁴, means for the realisation thereof, priority plan, occupational therapy²⁵, maintaining contacts with the family, etc. According to the Rulebook on the organisation of work, staff in the institutions should strive, whenever they can and to the greatest extent possible, to include the parents of convicted juveniles in the creation and implementation of individual plans, even though the relationships between convicted juveniles and their parents are very often disrupted, and, unfortunately, as a rule, full support of the family cannot be counted on (Mitrović, 2018, pp. 199–213).

The law also prescribes the procedure for assigning or classifying minors into classification-stimulative groups²⁶. This issue is also additionally regulated by the Rulebook on the organisation of work²⁷. Thus, in accordance with the above mentioned regulations, convicted juveniles are (re)classified into classification-stimulative groups based on monitoring of their behaviour and comportment in a group during the serving of their juvenile prison sentences, their dedication and results achieved during work and educational programmes especially their relation towards work, work resources and achieved work results, participation in cultural-educational, sports and other activities in their unit, as well as participation in leisure activities, attitude towards officials, other juveniles and members of the immediate family, disciplinary procedures and measures during their stay at the

²⁴ When it comes to organising and conducting the treatment of convicted juveniles in BiH and Republika Srpska, according to the Analysis of the Ombudsman of BiH, an aggravating circumstance for organising group activities and engaging instructors for certain work activities, as well as when organising assertive training programmes and non-violent communication programmes, is the small number of convicted individuals serving juvenile prison sentences in this institution.

²⁵ According to the Analysis of the Ombudsmen of BiH, in direct conversations with juveniles currently serving juvenile prison sentences in this institution, observations from earlier monitoring attempts were confirmed in that their daily activities are mainly watching television, working on the computer, with psychotherapy and occasional recreation in the gym.

²⁶ Article 165 paragraph 3 of the Law on protection and treatment of children and minors in criminal proceedings of the Republic of Srpska.

²⁷ The provision of para. 1 and 2 of Article 96 of the Rulebook on the Organisation of Work reads: After professional processing in the admissions department, minors are assigned to the starting group, P, for a period of three months. (2) After three months spent in the P group, and based on the results obtained by monitoring all the elements from Article 94 of this Rulebook, minors are reclassified into one of the classification-stimulative groups...

unit, and the overall level of their re-education²⁸. Accordingly, after professional processing in the admissions department, juveniles are assigned to the initial P group, and after three months in the P group, they are re(classified) in one of the other classification-stimulative groups, namely: A, B, C and D²⁹. (Re)classification is done every three months.

4) Obligation to visit juveniles placed in penitentiary-correctional institutions

Per the provisions of Article 120 Paragraph 2 of the LOJ RS, it is prescribed that juveniles placed in penitentiary-correctional institutions and institutions where juvenile prison sentences and institutional educational measures are executed must be visited by expert advisors, i.e., judges and prosecutors for juveniles, at least twice a year³⁰. Therefore, an active role of judges and prosecutors for juveniles implies, among other things, their obligation to determine, in direct contact with convicted juveniles and professionals who ensure that the measure i.e., sanction is being enforced, as well as by reviewing the relevant documentation, whether the treatment of juveniles is legal and adequate and also implies the need to assess the success in education and proper development of juveniles' personalities (Simović et al., 2021, p. 285). The above mentioned obligation of the judge for juveniles and the competent prosecutor for juveniles is additionally ensured by the provisions of Article 158 of the LOJ RS, according to which they are obliged to visit a juvenile placed in a juvenile prison institution at least twice a year. The purpose of visiting juveniles is for these judiciary bodies to directly observe the procedure for the execution of the imposed sentence, the method and means of the implemented treatments, potential problems in the implementation of individual treatments in general or applied measures, etc. (Simović et al., 2021, pp. 327–328). Also, when visiting the institution where juvenile perpetrators of criminal offences are placed, the judge and the prosecutor for juveniles in direct contact with convicted juveniles but also with the professionals who ensure that that the juvenile prison sentence is executed, as well as by reviewing the relevant documentation – have the opportunity to determine whether the activities are legal and adequate³¹. This, on

²⁸ Article 94 of the Rulebook on the organisation of work and life of minors and young adults serving sentences in juvenile prisons.

²⁹ Juveniles who stand out in terms of behaviour and comportment, and who have spent at least six months in the department, i.e. two classification periods, are assigned to the A group. Juveniles who stand out positively in all monitoring elements are assigned to group B. Juveniles who achieve satisfactory results and whose treatment is done without particular difficulties are assigned to group C. Juveniles whose treatment is difficult to do and who do not meet the established criteria are assigned to group D.

³⁰ According to information from the BiH Ombudsman, the obligation to visit minors by courts and social welfare centres in the Republic of Srpska is met sporadically, although such an obligation is prescribed by the Law on Juveniles.

³¹ According to the Special report on the situation in institutions where child offenders are placed, the judge and prosecutor for juveniles visit the juvenile placed in the institution for the execution of the juvenile prison sentence twice a year, where in direct contact with the juvenile and experts who

the other hand, certainly enables the judge and the prosecutor to assess in a comprehensive and complex manner the success achieved in education and proper development of juveniles' personalities (Simović et al., 2021, pp. 327–328). These individuals are obliged to immediately inform the Ministry of Justice of the Republic of Srpska about the omissions and other observations they notice, as well as the institution where the juvenile prison sentence is being enforced – so that the omissions can be eliminated as quickly and efficiently as possible. On the other hand, this legal provision establishes an obligation for the Ministry of Justice of the Republic of Srpska and the administration of the institution, according to which they are obliged to act according to the remarks and suggestions of the judge, i.e., the prosecutor for juveniles. Namely, once they are notified by the judge i.e., the prosecutor for juveniles, the Ministry of Justice of the Republic of Srpska and the administration of the institution where the juvenile prison sentence is being executed, are obliged to conduct the relevant checks without delay and undertake adequate measures to eliminate illegalities and irregularities and inform the judge the prosecutor for juveniles thereof (Simović et al., 2021, pp. 327–328).

5) Rewarding and punishing convicted juveniles

According to the provisions of Article 98-107 of the Rulebook on the organisation of work, reward and punishment models are applied in everyday treatment of juvenile offenders. Thus, this Rulebook, referring to the provisions of Article 152 of the LOJ RS, prescribes adequate benefits at the penitentiary-correctional institution itself (e.g. the use of one's own electronic device for sound reproduction, decorating the living space with personal belongings, rewards in the form of money or items, receiving a visit without supervision in the visiting rooms in the unit, more frequent visits and packages, extended right to receive visits and staying with a spouse or common-law partner in a dedicated room), as well as benefits outside the institution³², such as: going outside freely with the family,

take care of the execution of the sentence, as well as by reviewing the adequate documentation, they determine the legality and regularity of the actions and evaluate success in the upbringing and proper development of the minor's personality. These persons are obliged to immediately notify the Ministry of Justice, as well as the institution where the juvenile prison sentence is being executed about the observed omissions and other observations. After notifying the judge, i.e. the juvenile prosecutor, the Ministry of Justice, as well as the administration of the institution where the juvenile prison sentence is executed, are obliged to immediately conduct the relevant checks and take measures to eliminate illegality and irregularities and inform the judge and the prosecutor for juveniles accordingly.

³² According to the Analysis of the Ombudsmen of Bosnia and Herzegovina, it is noticeable that the staff of the institution has a hard time deciding whether to approve benefits outside the institution due to the fear that they will be misused (that the minor will run away, or not return on time or that it will have a negative effect on the environment where he will be staying). On the other hand, it should be noted that managers in the institution usually approve only two or three prescribed benefits, even though the Rulebook on the organisation of work and lifestyle of minors and younger adults serving a juvenile prison sentence offers a wide range of benefits within the institution and

going outside individually, visits to sports, cultural and other suitable events outside the institution, visits to family, relatives and other close people during weekends and holidays and additional absences from the unit of up to 15 days³³.

All benefits are approved by the head of the institution or a person authorised by them, per proposal of the Treatment Service.

The provisions of Article 155 paragraph 1 of the LOJ RS and Article 91 of the Rulebook on the organisation of work prescribe two types of disciplinary measures in case of misconduct, i.e. violations of the provisions of the Law on Juveniles and the corresponding rulebook (these are the so-called disciplinary violations), i.e. a warning and suspension of existing benefits (Mitrović, 2018, pp. 199–213). In addition, the special Rulebook on the disciplinary responsibility of juveniles serving institutional educational measures and juvenile prison sentences³⁴ prescribes the disciplinary procedure for juveniles serving institutional educational measures and juvenile prison sentences in educational and correctional-penitentiary institutions of the Republic of Srpska related to disciplinary violations and disciplinary measures, manner of initiation of a disciplinary measure and institutions that conduct the proceedings, appeals proceedings, execution, postponement of execution and the statute of limitations of disciplinary measures, as well as other issues related to the disciplinary liability of juveniles.

6) Parole and deciding on parole

Parole³⁵ is a very important criminal law institute, i.e. an extremely important penological, criminal policy and criminal law measure prescribed in Article 53 of the Law on the Protection and Treatment of Children and Minors in Criminal Procedure in the Republic of Srpska (Simović et al., 2021, p. 354). Conditions for granting of parole for a juvenile prison sentence, same as in general criminal law, are the fulfillment of both formal assumptions related to the minimum time that a convicted juvenile must spend serving the given sentence, as well as material ones related to the juvenile's behaviour and positive criminological prognosis (Gurda, 2015, pp. 323–341). Pursuant to the preceding provision, convicted juveniles may be paroled and released from serving juvenile prison sentence if they have served at least a third of the imposed juvenile prison sentence and if their behaviour has improved to such an extent that it can be reasonably expected that they will behave appropriately and not commit criminal acts upon their release, but not before

outside the institution (so far only free visits to the city with family and chaperoned visit to the city have been approved).

³³ Article 100 of the Rulebook on the organisation of work and life of minors and young adults serving sentences in juvenile prisons.

³⁴ Official Gazette of the Republic of Srpska, no. 101/2010.

³⁵ According to the Analysis of the Ombudsmen of BiH, parole is almost not applied in practice (namely, *prema* according to the data of the administration of the East Sarajevo Penitentiary, since the establishment of this institution, parole has been granted only once).

spending six months in a correctional-penitentiary institution (Article 53 paragraph 1 LOJ RS).

The procedure for granting parole (as a possibility, but not the right of a convicted juvenile) is initiated exclusively at the request of the convicted juvenile. The juvenile court judge of the first-instance court who issued the verdict decides on the juvenile's request, i.e. the parole of the person sentenced to juvenile prison (Simović et al., 2021. pp. 354–355).

7) Contacts with the outside world

According to the Law on the Execution of Criminal and Misdemeanour Sanctions of the Republic of Srpska, minors sentenced to juvenile prison sentences have a number of rights. Those especially relevant include the right to contact with the outside world, the right to legal aid, the right to meet their religious needs, the right to work, the right to healthcare, the right to education, etc. (Simović et al., 2021, pp. 470–471).

Contact with the outside world (primarily with the family) is certainly extremely important in the process of education, re-education and proper development of a juvenile convict³⁶. The contact is made at the suggestion of the treatment service and with the approval of the head of the institution. Thus, minors are entitled to visits from close persons and other relatives (four visits per month for two hours each), parcels, telephone calls via payphone, correspondence with family members, visits by persons who are estimated to have a positive influence on re-education of a convicted juvenile, as well visits from their attorneys (Mitrović, 2018, pp. 199–213).

8) Healthcare of convicted juveniles

Special attention is paid to healthcare of minors³⁷ serving their sentences in juvenile prisons. A convicted juvenile, in addition to the basic right to healthcare, is also entitled to healthcare outside the institution, if the institution cannot provide appropriate healthcare (Simović et al., 2021, p. 474). On the other hand,

³⁶ In the Analysis of the Ombudsmen of BiH, the following was acknowledged: ...in this institution, minors have the possibility of receiving visits, i.e. four visits per month for two hours. Convenience within the institution allows a greater number and extension of visits by close relatives, and extraordinary benefits also allow visits by other relatives. On the other hand, minors are also allowed to contact their family members via a payphone. The Internet is also available to minors, with additional supervision by teachers...

³⁷ Article 127 of the Law on protection and treatment of children and minors in criminal proceedings of the Republika Srpska reads: Healthcare of juveniles subject to an institutional educational measure or a juvenile prison sentence is provided in accordance with accepted medical standards applied to juveniles in the wider community. Juveniles who are subject to an institutional educational measure or a juvenile prison sentence are subject to a systematic examination of the relevant health institution at least once a year. The health status report is submitted to the judge and the prosecutor, parent, guardian or adoptive parent of the juvenile, as well as the guardianship authority.

performing a medical examination immediately, and no later than within 24 hours after the admission of a minor to the institution, is extremely important. Once a year, and more frequently if necessary, the institution is obliged to perform a general health examination of a convicted juvenile in a local hospital i.e. primary healthcare centre (Mitrović, 2018, pp. 199–213).

The health report after the general health examination is submitted to the judge for juveniles and the competent prosecutor for juveniles, but also to the parent, guardian or adoptive parent, as well as to expert advisors, i.e. the guardianship authority³⁸. The time spent on treatment in the relevant health institution is counted towards the duration of the juvenile prison term. Juveniles have the right to have their family informed about their health condition. If a convicted juvenile dies, their family has the right to review the reports of an independent investigation conducted within six months from the day the juvenile was released from the institution (Simović et al., 2021, p. 470).

During the regular bimonthly reporting, the staff of the institution is obliged to submit a report on the behaviour and mental state of the minor to the juvenile court judge, the competent juvenile prosecutor and the social welfare centre (Mitrović, 2018, pp.199–213).

In the provisions of paragraph 3 of Article 127 of the LOJ RS, it is prescribed that special attention must be paid to the needs of pregnant minors, i.e. mothers with babies, and also to the needs of drug addicts, alcoholics and minors with special needs (Marić, 2023, pp. 537–547). The competent service in the correctional institution prepares at least twice a year all observations related to the mental and physical health of juveniles and then submits a detailed report on the mental state of a juvenile to the juvenile court judge in charge of supervision i.e. who has insight into the execution of the criminal sanction of an institutional character, then the prosecutor for juveniles, the juvenile's parent, i.e. guardian or adoptive parent, as well as the competent guardianship authority (Simović et al., 2020, p. 225). This report should include different forms and types of manifestation of the psyche as the inner reality of a convicted juvenile. It is prepared based on a detailed examination, primarily of the psychological functions of juvenile offenders. As a rule, this examination should be conducted by a team of experts made up of different professions (Marić, 2023, pp. 537–547).

³⁸ According to the data from the Special Report on the situation in institutions where child offenders are placed, the medical examination of juveniles is performed within 24 hours of the minor's admission to the institution, and once a year minors have a general health examination in the relevant health institution, and the findings obtained are delivered to the prosecutor for juveniles, the judge for juveniles and the social welfare centre according to the juvenile's place of residence. Twice a year, a report on the mental state of juveniles is prepared and submitted to the prosecutor and the judge in charge of juveniles, the social welfare centre, and the juvenile's parents. Juveniles are fully provided with primary healthcare, specialist examinations, if necessary, as well as addiction treatment programmes. Juveniles have ensured space for storage of their personal items.

This way, permanent cooperation is ensured between the judge for juveniles and the correctional institution where the juvenile prison sentence is being served (Marić, 2023, pp. 537–547). Ultimately, all this is in the interest of the convicted juvenile, especially from the perspective of the judge's discretionary powers, who can repeal, replace or suspend the imposed measure, i.e. sentence, from further execution at their own discretion in each concrete case.

9) The right to legal protection against the measures and decisions of the head of the correctional-penitentiary institution³⁹

The purpose of the provision of legal aid is to protect the rights of juvenile prisoners and achieve the interests related to serving a juvenile prison sentence. In this context, a juvenile prisoner has the right to submit objections and other submissions to the head of the institution. Likewise, according to the provision of Article 132 of the LOJ RS, juveniles who believe that they have been deprived of certain rights or that their rights have been violated, or that other illegalities or irregularities have been committed during their execution of a juvenile prison sentence, are entitled to complain to the head of the institution where the criminal sanction is being executed. In the event of a juvenile's complaint, the head of the institution where the juvenile prison sentence is being served, will adopt a justified decision within three days, either rejecting the complaint as unfounded or establishing its complete or partial validity, in which case adequate measures will be urgently undertaken to remedy the violations committed or deprivation of rights, i.e. other illegalities or irregularities. The decision must contain an instruction on the legal remedy. The juvenile may, within eight days of receiving the decision, submit an appeal against the decision of the head of the institution regarding the complaint, to the juvenile court judge who imposed the juvenile prison sentence.

10) Education of convicted juveniles

The right to education of minors sentenced to juvenile prison is legally regulated by international and domestic legal norms. Thus, according to the European prison rules, each prison institution must strive to enable all prisoners

³⁹ In conversations with juveniles serving juvenile prison sentences in the Department for Juveniles of the East Sarajevo Penitentiary, it was established that they are aware they can submit complaints about the conditions of accommodation and treatment. There are no special records on the number and type of complaints submitted by juveniles within the Juvenile Prison, but such records are kept at the level of the East Sarajevo Penitentiary. According to the data available to the administration, in 2015, only one complaint from a juvenile addressed to a judge was received. According to the administration, the juvenile complained because the prison administration, in the process of deciding on parole, negatively evaluated the behavior and progress of the juvenile offender. He learned that during the delivery of the court decision on the rejection of his request for parole, given that the explanation of the decision clearly stated that the prison/professional staff's opinion on the justification of parole was negative..

(especially juveniles) to participate in the most comprehensive educational programmes consistent with their needs and wishes (Marić, 2023, pp. 537–547).

In accordance with the above mentioned, a convicted juvenile is entitled to attend classes outside the institution, in case classes of certain vocation are not organised by the institution, i.e., if this is justified by past achievements in the juvenile's education and if that does not disrupt the execution of the juvenile prison sentence. Preference should be given to illiterate convicted juveniles and those without elementary or vocational education (Marić, 2023, pp. 537–547).

Each institution should have a library available to all prisoners adequately equipped with a variety of entertainment and educational resources, books and other media (Simović et al., 2021, p. 467). Also, every juvenile prisoner subject to compulsory education must have access to that education. The education of convicted juveniles, to the extent that it is feasible: a) must be an integral part of the system of education and vocational training in the country so that convicted juveniles can continue their education and vocational training without issues after their release from prison; b) should be conducted under the auspices of external educational institutions (Marić, 2023, pp. 537–547). The right to education implies that minors and young adults (up to 21 years of age) have the right to elementary and secondary education up to the fourth-degree level. The institution is obliged to organise classes in accordance with the regulations on elementary and secondary education of the Republic of Srpska. Convicted juveniles who have completed a certain school or obtained a qualification in an institution in this way receive a school certificate where it must not be stated that they received their elementary and secondary professional education in a correctional-penitentiary institution (Marić, 2023, pp. 537–547).

Conclusion

Juvenile prison is a special and most severe type of deprivation of freedom, similar to a prison sentence as a type of criminal sanction for adult offenders. Juvenile prison sentences imposed exclusively for older minors, in addition to the Republic of Srpska, are also prescribed in the criminal legislation of the Federation of Bosnia and Herzegovina, the Brčko District of Bosnia and Herzegovina, the Republic of Serbia, the Republic of North Macedonia, the Russian Federation, the Republic of Slovenia, the Republic of Montenegro, the Republic of Croatia, the Republic of Bulgaria and a number of other modern countries.

Juvenile prison sentences in the Republic of Srpska are executed in a special correctional-penitentiary institution for juveniles, which cannot have contact with the correctional-penitentiary institution where adults serve their prison terms. Also, juvenile prison sentences imposed on girls are executed in a special

correctional-penitentiary institution for juvenile girls, i.e., in a special department of a correctional-penitentiary institution for juveniles (in our system of execution of criminal sanctions, the Department of Juvenile Prison has existed since October 2008, and functions as a special department within the East Sarajevo Penitentiary).

In the Republic of Srpska, significant attention is paid to the execution of juvenile prison sentences. The fact that this area is exceptionally standardized, which is rare in our legislative and legal practice, supports this fact with a number of legal texts but also with an enormous number of by-laws.

References

- Education programme on the acquisition of special knowledge and continuous professional training and improvement of persons working in youth delinquency and criminal-legal protection of children and minors, Official Gazette of the Republic of Srpska, number 101/2010.
- Gurda, V. (2015). Parole as an alternative to institutional-type sanctions in the criminal law of Bosnia and Herzegovina. In *Collection of papers from the International Scientific Conference: Criminal legislation – de lege lata et de lege ferenda*. Ministry of Justice of the Republic of Srpska, Ministry of Justice of Serbia, University of Banja Luka, Serbian Association for Criminal Law Theory and Practice, and Official Gazette of the Republic of Srpska.
- Guidelines on keeping records of imposed educational measures, Official Gazette of the Republic of Srpska, number 66/2012.
- Institution of Ombudsman for Human Rights of Bosnia and Herzegovina, & UNICEF. (2016). *Analysis of the situation in institutions where minor offenders are placed in Bosnia and Herzegovina*. Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.
- Institution of Ombudsman for Human Rights of Bosnia and Herzegovina. (2018). *Report on the implementation of recommendations from the document entitled: Analysis of the situation in institutions where minor offenders are placed in Bosnia and Herzegovina*. Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.
- Institution of Ombudsman for Human Rights of Bosnia and Herzegovina. (2021). *Special report on the situation in institutions where minor offenders are placed*. Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.
- Institution of Ombudsman for Human Rights of Bosnia and Herzegovina. (2021). *Methodology of visits to institutions where minor offenders are placed with the aim of determining circumstances*. Institution of Ombudsman for Human Rights of Bosnia and Herzegovina.
- Law on protection and treatment of children and minors in criminal proceedings, Official Gazette of the Republic of Srpska, no. 13/2010; 61/2013 and 68/2020.
- Law on protection and treatment of children and minors in criminal proceedings, Official Gazette of Brčko District of Bosnia and Herzegovina, number 44/2011.
- Law on protection and treatment of children and minors in criminal proceedings, Official Gazette of the Federation of Bosnia and Herzegovina, no. 7/2014 and 74/2020.

- Criminal Code of the Republic of Srpska, Official Gazette of the Republic of Srpska, no. 64/2017; 104/2018 - decision of the Constitutional Court of the Republic of Srpska; 15/2021; 89/2021; 73/2023 and Official Gazette of BiH, No. 9/2024 – decision of the Constitutional Court of Bosnia and Herzegovina.
- Law on criminal procedure of the Republic of Srpska, Official Gazette of the Republic of Srpska, no. 53/2012; 91/2017; 66/2018 and 15/2021.
- Law on the execution of criminal and misdemeanour sanctions of the Republic of Srpska, Official Gazette of the Republic of Srpska, no. 63/2018 and 55/2023.
- Marić, T. (2023). Right to health and education in prison. In *Collection of papers from the VIII International Scientific Conference – Social deviations, Right to health and education*. Centre of Modern Knowledge.
- Mitrović, Lj., & Dunjić, P. (2022). Execution of prison sentences in the Republic of Srpska: Principles of execution and institutions where prison sentences are served. *Yearbook of the Faculty of Legal Sciences of the Pan-European University APEIRON in Banja Luka*, 12.
- Mitrović, Lj. (2018). Implementation of prison educational measures and juvenile prison sentences in Bosnia and Herzegovina. In *XXX International Scientific Thematic Meeting: Justice tailored to the child*. Palić.
- Mitrović, Lj., & Grbić-Pavlović, N. (2012). Juvenile prison sentence in the Republic of Srpska. *Word of Law: Journal of Legal Theory and Practice*, 33. Association of Attorneys of the Republic of Srpska.
- Regulation on the application of educational recommendations towards minors, Official Gazette of the Republic of Srpska, number 10/2010.
- Rulebook on the application of educational measures of special obligations towards juvenile offenders, Official Gazette of the Republic of Srpska, number 101/2010.
- Rulebook on the application of educational recommendations towards juvenile offenders, Official Gazette of the Republic of Srpska, no. 101/2010 and 52/2015.
- Rulebook on the disciplinary responsibility of juveniles serving institutional educational measures and serving juvenile prison sentences, Official Gazette of the Republic of Srpska, number 101/2010.
- Rulebook on the organisation of work and life of minors and young adults serving sentences in juvenile prisons, Official Gazette of the Republic of Srpska, number 52/2015.
- Rulebook on Criminal Records, Official Gazette of the Republic of Srpska, No. 6/2015.
- Rulebook on the internal organisation and systematization of workplaces of the East Sarajevo Penitentiary, Official Gazette of the Republic of Srpska, number 15/2024.
- Simović, M., Jovašević, D., Mitrović, Lj., & Simović-Nišević, M. (2021). *Commentary on the Law on Protection and Treatment of Children and Minors in Criminal Proceedings* (2nd ed.). Official Gazette of the Republic of Srpska.
- Simović, M., Jovašević, D., Mitrović, Lj., & Simović-Nišević, M. (2021). *Juvenile criminal law* (3rd ed.). Faculty of Law, University of East Sarajevo.
- Selman, Dž., Mitrović, Lj., Uletilović, D., Mirkonj, N., & Šain, D. (2010). *Treatment of children and minors in criminal proceedings: Manual*. Ministry of Justice of the Republic of Srpska and UNICEF.
- Selman, Dž., Mitrović, Lj., Uletilović, D., Mirkonj, N., & Šain, D. (2012). *Minors in criminal proceedings with a collection of regulations in the field of juvenile justice*. Ministry of Justice of the Republic of Srpska and UNICEF.

