



JUVENILE JUSTICE SYSTEM IN CROATIA

MAIN STRENGTHS AND CHALLENGES OF USING INDIVIDUAL ASSESSMENT

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JUVENILE JUSTICE SYSTEM IN CROATIA

CRIMINAL CODE

MISDEMEANOR ACT

CRIMINAL PROCEDURE ACT

JUVENILES

ADULTS

YOUTH COURTS ACT

(special procedure, special measures, special sanctions)

LAW ON PROBATION

THE LAW ON CONDUCTING JUVENILE SANCTIONS

LAW ON CONDUCTING PRISON SANCTION



- **Different ordinances that regulate execution of juvenile sanctions and work of professionals within the social welfare system and the justice system**

HARMONIZATION OF THE YOUTH COURTS ACT IN THE NEW AMENDMENTS WITH THE DIRECTIVE (EU) 2016/800

The juvenile criminal justice legislation in the Republic of Croatia has been harmonised to a great extent with the provisions of the Directive, but it was necessary to implement certain amendments in relation to the procedural position of juveniles:

- **the letter of rights for juveniles;**
- the manner in which a **juvenile must be informed of the meaning of his/her rights;**
- the **obligation of informing the holder of parental responsibility** of the juvenile's rights;
- the **circumstances in which the letter of juveniles's rights is provided** to another corresponding adult;
- the juvenile's **right to be accompanied** by parents, guardians or another corresponding adult throughout the proceedings;
- the **obligatory defense for a juvenile is moved to the earliest phase** of the proceedings;
- an obligation is stipulated for the court to **determine on the basis of the report** of the expert assistant, social welfare centre or other professionals or entities **whether any significant changes occurred** during the proceedings;
- a medical examination of the arrested juvenile, as well as recording the conclusions and using the results of the medical examination is introduced into the national legislation;
- juvenile who turns 18 while in pre-court detention shall remain in the closed reformatory institution if that is justified and if that is in accordance with the best interests of other juveniles placed together with him/her;
- the police interrogation is introduced as an action having evidentiary strength.

Children / Juveniles / Adults in Criminal Law

Children

- <14 years of age
- not criminally responsible

Juveniles

- 14-18 years of age
- Youth Courts Act (*special criminal process and sanctioning*)

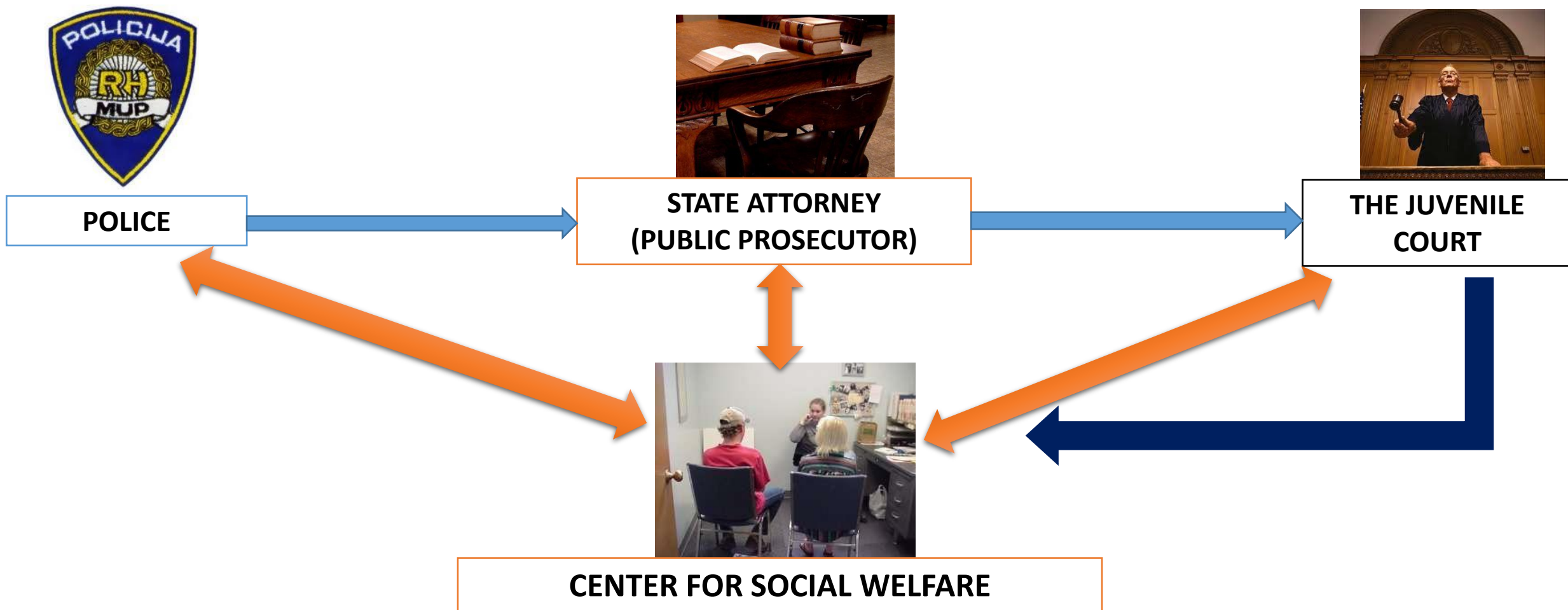
Young Adults

- 18-21 years of age
- Youth Courts Act **or** Criminal Code

Adults

- >18 years of age
- Criminal Code & Criminal Procedure Act

Criminal Procedure - scheme of basic elements



EXECUTION OF THE SANCTIONS

Social welfare institutions

Health institutions

NGO's and counseling centres

Justice institutions (2)



Purpose of Juvenile Sanctions

- Within the general purpose of criminal-law sanctions the purpose of juvenile sanction shall be to influence a juvenile offender's **education**, **development** of his or her entire **personality** and strengthen his or her personal **responsibility** by offering him or her protection, care, assistance and supervision, as well as possibilities for general and professional education.

Choice of a Juvenile Sanction



- in the selection of an educational measure, the **court shall take into account** juvenile's:
 - age
 - *personality traits (risk factors)*
 - seriousness and nature of the offence
 - motives and circumstances
 - behaviour after committing the offence
 - *living conditions, family circumstances, education*
 - recidivism
 - *other important elements...*

PROCESS OF INDIVIDUAL ASSESSMENT



LEGAL ELEMENTS AND PROVISIONS FOR CONDUCTING INDIVIDUAL ASSESSMENT (IA) OF JUVENILE OFFENDERS IN THE REPUBLIC OF CROATIA

All actions and interventions → must be aimed at achieving the purpose of sanctioning

Proscribed throughout:

- Youth Courts Act
- Act on Execution of Sanctions Imposed to Juveniles for Criminal Offences and Misdemeanours
- Corresponding ordinances



THE ASSESSMENT CONDUCTED DURING THE CRIMINAL PROCEDURE AND EXECUTION OF SANCTIONS

THE ASSESSMENT CONDUCTED FOR THE PURPOSE OF CREATING AN INDIVIDUAL TREATMENT PLAN WHEN A JUVENILE OFFENDER IS SANCTIONED

THE ASSESSMENT CONDUCTED DURING THE CRIMINAL PROCEDURE AND THE EXECUTION OF SANCTIONS

- The principle of appropriateness – key elements underlying all the provisions for the process of IA during the criminal procedure

STATE ATTORNEY	YOUTH COURT
<ul style="list-style-type: none"> ▪ Data on personal and family circumstances of a juvenile ▪ The juvenile’s characteristics ▪ Closer and wider social environment of a juvenile ▪ Attitude towards the criminal offense ▪ Other circumstances important for further procedures <p>IF APPLYING THE PRINCIPLE OF OPPORTUNITY</p> <ul style="list-style-type: none"> ▪ Informations from the juvenile’s parents/guardians, other persons/institutions 	<ul style="list-style-type: none"> ✓ To see if there are grounds to initiate criminal proceedings and has the possibility to dismiss the criminal complaint <p>IF THE PROCEDURE IS INITIATED</p> <ul style="list-style-type: none"> ▪ The youth judge is provided with various aspects of psychosocial assessment by a non-legal professional at the court, from the social welfare centre and/or other social and health care institutions

THE ASSESSMENT CONDUCTED FOR THE PURPOSE OF CREATING AN INDIVIDUAL TREATMENT PLAN WHEN A JUVENILE OFFENDER IS SANCTIONED

- Execution of every juvenile sanction is based on the **INDIVIDUAL TREATMENT PLAN**



fundamental document → The Act on the Execution of Sanction Imposed to Juveniles for Criminal offences and Misdemeanours

- It is jointly developed and supplemented by the educator, expert assistant at the social welfare centre, expert assistant at the youth court, juvenile, parent/guardian as well as other persons
- The program is submitted to the youth court that supervises the execution of the educational measure (examined and monitored at least once in 3 months)

Individual treatment plan contains the following:

Overview of identified problems and needs of the juvenile

Fields of action

Professional methods and procedures

Special treatment programs

Behaviour risk assesment

Persons who perform tasks

Deadlines for the completion of all activities

PROFILE OF EXPERTS

DOING IA

USING IA

**SOCIAL
PEDAGOGUES**

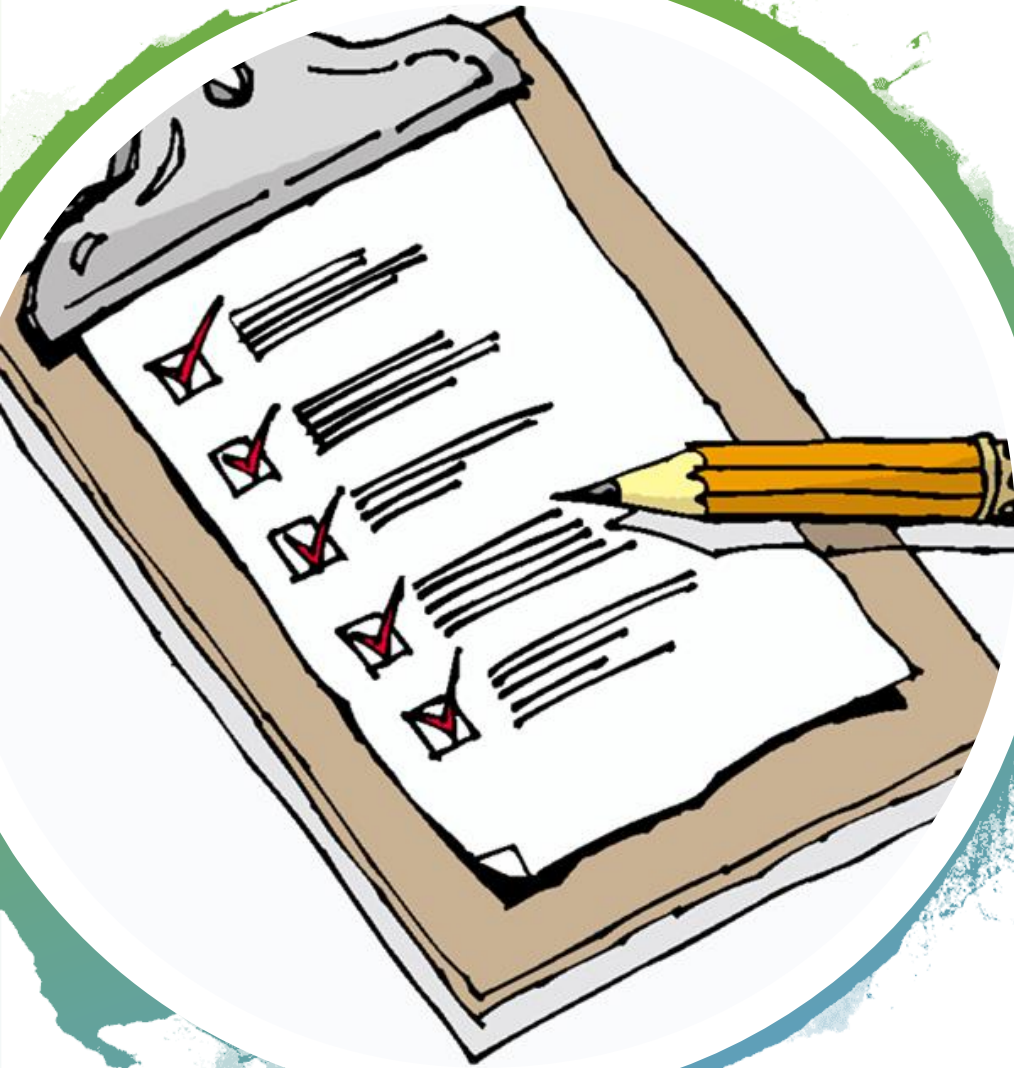
**SOCIAL
WORKERS**

PSYCHOLOGISTS

**LEGAL
PROFESSIONALS**

**NON-LEGAL PROFESSIONALS – STATE ATTORNEY OFFICE
NON-LEGAL PROFESSIONAL – YOUTH COURTS
SOCIAL WELFARE CENTRES
SOCIAL WELFARE INSTITUTIONS**

**YOUTH STATE ATTORNEYS
YOUTH JUDGES**



**CROATIAN EXPERTS'
PERSPECTIVE ON THE MAIN
STRENGTHS AND
CHALLENGES OF USING
INDIVIDUAL ASSESSMENT**

Research implementation and participants

- **FOCUS GROUPS**

- Run in compliance with the *interview/focus groups guidelines*
- Each headed by **2 researchers – co-moderators**
- **N = 29 experts** (17 doing IA; 12 using IA)

Zagreb

Rijeka

Osijek

N = 10

N = 9

N = 10

(5 doing IA; 5 using IA)

(6 doing IA; 3 using IA)

(6 doing IA; 4 using IA)

- Experts who use IA → youth judges and youth state attorneys

EXAMPLES OF GOOD IA PRACTICES IN CROATIA

Long-term presence of juveniles' assessment in legislation

Long-term experience of experts in the work on juveniles' assessment

Awareness among the scientific and professional public on the importance and necessity of juveniles' assessment

A quality implementation of all-day assessment of juveniles' needs to the mutual satisfaction of experts and beneficiaries

Numerous projects were implemented and researches conducted on the topic of needs assessment of children and youth with behavioural problems/juvenile offenders

Systematic trainings held on the topic of juveniles' assessment

The systems that a juvenile has to run through during proceedings are inter-connected

ADVANTAGES AND EXAMPLES OF GOOD PRACTICE

EXPERTS DOING IA	EXPERTS USING IA
<ul style="list-style-type: none">✓ <i>Quality legislative framework</i>✓ <i>Available non-legal professionals in courts and state attorney's offices</i>✓ <i>Generally high quality of opinions and proposals made on the basis of IA</i>✓ <i>Good cooperation among sectors</i>✓ <i>Good interdisciplinary cooperation</i>✓ <i>Available multidisciplinary teams in social welfare centres and social welfare educational institutions/centres for providing services in the community</i>	
	<ul style="list-style-type: none">✓ <i>Regular visits of juveniles executing their sanctions are organised</i>✓ <i>Diagnostic departments at social welfare institutions give priority to juvenile suspects or juveniles accused of a criminal offence</i>

DIFFICULTIES AND CHALLENGES

EXPERTS DOING IA	EXPERTS USING IA
<ul style="list-style-type: none">✓ <i>Insufficient finances</i>✓ <i>Challenges related to pre-trial detention for juveniles</i>✓ <i>Inertia of the system</i>✓ <i>Problem of data confidentiality</i>✓ <i>Uneducated defence attorneys</i>✓ <i>Insufficient number of (specialized) experts</i>✓ <i>Non-uniform practice</i>✓ <i>Insufficient quality of treatment and a lack of a social and health treatment institution for juvenile offenders who in comorbidity also have mental health problems</i>	
	<ul style="list-style-type: none">✓ <i>Marginalization of juvenile law</i>✓ <i>Negative selection of judges and state attorneys for juveniles</i>✓ <i>Insufficient number of specialized experts</i>

AND HOW DOES THIS „WORK” IN PRACTICE?

Examples from the prosecutors' office

Example A

Personal data with an emphasis on risks and strenghts in each area

Age

16

Criminal offense:

Cell phone theft, first time reported for criminal offense

**Family
circumstances:**

younger sister, there has been no need for any intervention in the family (within the social welfare system) , father unemployed, parents supportive, but with adequate attitude towards the offense, no significant health problems detected

Education :

During primary school no obstacles detected, active in sports till the end of primary school, now involved in sports recreationally, now is student of 2. grade od School for Car Mechanic, attends school regularly,

**Attitude towards the
offense and
responsivity factors**

Now expressing guilt, shame and willingness to take on the consequences

- ✓ Checking nature of offense and previous records
- ✓ Report from social welfare centre (*or sometimes just telephone consultations – lighter cases*)
- ✓ Interview with juvenile and parents in prosecutor's office (conducted by expert advisor – non legal professional)



Integration and interpretation of collected data, including an analysis indicating clear links between the information collected and the proposed intervention



EXPERT OPINION = APPLYING THE PRINCIPLE OF OPPORTUNITY



- ✓ Applying of the principle of opportunity is justified
- ✓ In prosecutors' office juvenile accepts special obligation (1 of 8 available)
- ✓ In this case = victim offender mediation
- ✓ Implementation is monitored by the expert advisor and upon completion the final report is made

Example B

Personal data with an emphasis on risks and strenghts in each area

Age	16
Criminal offense:	Burglary into an acquaintance's apartment
Prior records	Destruction of property in the age of 13 (not criminally responsible), 3 misdemeanors (related to violant behavior during football games and to posession of drugs)
Family circumstances:	Living with both parents and three brothers; modest material situation, father reported for family violance, social welfare measures undertaken in the family upon reports from schools , parents do not have sufficent autorithy and control
Education :	During primary school behavioral disorders reported from 7th grade (13years old), measures from social welfare service undertaken, including referral of the minor to the Diagnostic centre for 4 weeks, now is student of 2. grade od School for plumbers, not regular in attending school, low motivation for education, spending time with friends in a local pub or at home playing computer games
Attitude towards the offense and responsivity factors	Juvenile does not express adequately critical attitude towards his behavior; Tendency to transfer responsibility to others; Accepts cooperation but with constant motivating and control

- Checking nature of offence, previous records
- Report from social welfare centre
- Report from Diagnostic centre (after 4 weeks of observation of a juvenile) /or report from other relevant institution – health, school, social welfare institution...



Integration and interpretation of collected data, including an analysis indicating clear links between the information collected and the proposed intervention / educational measure



EXPERT OPINION = PROPOSAL FOR ADEQUATE EDUCATIONAL MEASURE FOR THE CRIMINAL PROCEDURE AT THE COURT



- ✓ Criminal procedure in the court needed
- ✓ Proposed measure - Juvenile probation with daily stay in educational institution