

## Welfare Versus Neo-Liberalism: Juvenile Justice in Slovenia

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### INTRODUCTION

Slovenia was part of the Austrian–Hungarian Monarchy until the end of 1918 when it became part of Yugoslavia. In 1991, Yugoslavia disintegrated and the independent Republic of Slovenia was established. Today it is one of the smallest European countries, with only 2 million inhabitants. Although the total population of Slovenia has been stagnating in the 1990s, its age structure has been changing constantly. The process of population ageing continues. According to the 2002 census the proportion of the young population (0–17 years) was 19.3%. Ten years ago, at the beginning of the 1990s, the proportion was 25%.

This paper discusses the evolution of Slovenia's juvenile justice system. It describes recent patterns and trends in juvenile crime, and the operation of the current juvenile justice system in Slovenia.

### 1. EVOLUTION OF THE JUVENILE JUSTICE SYSTEM

The Slovenian juvenile justice system developed under the influence of Austria. The Austrian Ministry of Justice decided in 1908 that all cases of juvenile delinquents must be dealt with by specialized judges at the general court. The first juvenile judge of the Austrian–Hungarian Monarchy (Fran Milčinski) was appointed in Ljubljana in 1909. A specific justice system for juveniles was officially created in the late 1920s. Yugoslavia enacted the first Criminal Code and Criminal Procedure Code in 1929, which also contained provisions pertaining to juvenile delinquents. Juveniles were divided in two groups:

1. Younger juveniles (between 14 and 17 years) were considered relatively irresponsible, the most important criterion being their level of maturity. The court could impose a sentence or educational measures only if their maturity was proven.
2. Older juveniles (between 17 and 21) were dealt with in the same way as adult offenders, although the penalties imposed on juveniles were less severe.

This system changed after the Second World War. The Criminal Code of 1951 divided juveniles into two age categories: younger (between 14 and 16 years) and

older juveniles (between 16 and 18 years). Even more important was the conclusion about the eventual liability of the juvenile. Depending on that liability, the judge could impose an educational measure or a sanction. But the most important element was the orientation towards the personality of the juvenile and the emphasis on knowing the personal and family circumstances of the individual.

The Yugoslav Criminal Code was amended in 1959. An amendment to the law in that year brought a relaxation of sanctions, the removal of the penalty of life imprisonment, and the introduction of judicial admonition for cases “when grounds exist for the belief that the aim of punishment would be attained without the imposition of punishment”. Several other security measures were also introduced. The provisions relating to juvenile offenders were also amended. Juveniles were no longer divided into the categories of “criminally responsible” or “irresponsible”. The court could impose only educational measures in the case of younger juveniles (between 14 and 16 years); while imprisonment could only be imposed on older juveniles if the State had proved that the imposition of an educational measure would be inappropriate. A special category of young adults was introduced in the Criminal Code. Thus, it could be said that our system of dealing with juvenile offenders was established in 1959.

In 1974, the new federal Constitution of Yugoslavia strengthened the federal system and introduced a division of legislative competence in the area of substantive criminal law between the Federation and the Republics (Slovenia was one of them). The Code of Criminal Procedure remained a federal prerogative and was enacted in 1977. Under the Constitution of 1974, almost the entire general part remained the prerogative of the Federation, except the system of sanctions for juvenile offenders. The Slovenian Criminal Code of 1977 adopted the educational measures and sentences in the Yugoslav Criminal Code of 1959. The system of sanctions remained unchanged until 1995. Slovenia did not follow other European countries by introducing alternative ways of dealing with juveniles – diversion, restorative justice elements (Petrovec, 1996).

The present Criminal Code and the Code of Criminal Procedure were enacted in September 1994, and became law on 1 January 1995. No special Code for dealing with juvenile delinquents was created, but following the tradition from the Yugoslav juvenile justice system, it is part of the general criminal law (it is a special chapter in the Criminal Code and in the Code of Criminal Procedure).

## 2. TRENDS IN JUVENILE DELINQUENCY IN SLOVENIA

Over the last 20 years, Slovenia has not experienced a dramatic increase in the volume of juvenile crime. Approximately 4% of juveniles aged 14–18 (who fall under court jurisdiction) are dealt with by the police each year and less than 1% receives an educational measure or is sentenced by the court. As Fig. 16.1