

Legal and Actual Treatment of Juveniles Within the Criminal Justice System of Bosnia and Herzegovina

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INTRODUCTION

Before getting into discussions on juvenile delinquency and juvenile criminal justice provisions in Bosnia and Herzegovina (BH), let us give a few introductory remarks related to the recent history of the country. Events that were taking place in the region of ex-Yugoslavia during the early 1990s are widely known and they are usually defined by the following words – crisis, disintegration, and wars. It would not be a mistake to say that the culmination of all these events, especially bearing in mind its duration and severe consequences, took place in BH. When it comes to war in BH, it should be recalled that it ended by the signing of Dayton Peace Agreement (DPA).¹ Although the DPA brought war to an end, it also defined a very complex, inefficient and complicated administrative and territorial state structure. From 1995 on BH consisted of two entities, namely the Federation of Bosnia and Herzegovina (FBH) and the Republika Srpska (RS) that are afforded a very high level of autonomy in exercising their constitutionally defined powers. FBH, as a bigger entity, is even more decentralized by being divided into ten cantons as separate units having their own assemblies and therefore constitutions too. Another separate administrative and territorial unit is represented by Brcko District of BH (BDBH) with a separate legal system including a separate criminal justice system.

According to Article III of the Constitution of BH (Annex 4 to DPA), BH is in charge of the international and inter-entity criminal law enforcement including relations with Interpol. All other issues related to criminal law are within the jurisdiction of the entities. Due to these facts, until July 2003 there were certain differences between the criminal justice systems of the entities, especially when it comes to provisions related to juvenile offenders. Another problem related to the issue of our concern, caused by this kind of state structure, is the nonexistence of all unified statistics, including statistics on crime related issues.

¹DPA is concluded in Dayton USA and signed in Paris, France in December 1995. It is also known as General Framework Agreement for Peace (GFAP).

1. CRIMINAL LAW REFORM IN BOSNIA AND HERZEGOVINA

The main characteristic of criminal law reform on the territory of BH during the period 1992–2003 was its great speed. It means that processes of criminal law reform were going on separately in both entities and in BDBH. Although rooted in the criminal law of former Yugoslavia, the three assemblies took different paths of progress toward harmonization of the criminal law with international standards. Fortunately, uncoordinated reforms stopped in January 2003 when BH, as a state, finally got its Criminal Code of Bosnia and Herzegovina (CCBH)² and the Code of Criminal Procedure of Bosnia and Herzegovina,³ that have to be applied on the whole territory of BH. As new laws introduced a lot of new and modified legal solutions there was a need for immediate harmonization of existing respective criminal codes of FBH, RS, and BDBH. Luckily, it took only a few months until the new laws were in place.⁴ Since there are no significant differences between the laws, in our further discussions we will primarily talk about laws regulating juvenile justice system on the state level.

2. GLOBAL OVERVIEW OF JUVENILE DELINQUENCY TRENDS IN BOSNIA AND HERZEGOVINA

As we have already said there is no state office of statistics in BH. Therefore, in order to get data on juvenile delinquency we had to look for it on the entity level. Surprising or not, we were able to get the data only in the Federal Statistics Office (FSO)⁵ that provided us with partial information on juvenile delinquency in FBH. Although it was suggested to use only police statistics and self-report data when analyzing juvenile delinquency trends, due to the fact that self-report delinquency studies have not been conducted yet in BH,⁶ and bearing in mind that police forces are organized on a cantonal level, it was quite impossible to collect the data as requested in the guidelines provided for the working group on juvenile justice. Therefore, we present the data as we got

²Criminal Code of Bosnia and Herzegovina, Official Gazette of BH, No. 37/03.

³Code of Criminal Procedure of Bosnia and Herzegovina, Official Gazette of BH, No. 3/03.

⁴Criminal Code of Federation of Bosnia and Herzegovina, Official Gazette of FBH, No. 36/03, Code of Criminal Procedure of Federation of Bosnia and Herzegovina, Official Gazette of FBH, No. 35/03, Criminal Code of Republika Srpska, Official Gazette of RS, No. 49/03, Code of Criminal Procedure of Republika Srpska, Official Gazette of RS, No. 50/03, Criminal Code of Brcko District of Bosnia and Herzegovina, Official Gazette of BDBH, No. 10/03, Code of Criminal Procedure of Brcko District of Bosnia and Herzegovina, Official Gazette of BDBH, No. 10/03.

⁵All data related to juvenile delinquency in this report are gathered from Federal Statistics Office's Bulletins for 1998, 1999, 2000, 2001, 2002, and 2003. These bulletins contain the data gathered in Federation of Bosnia and Herzegovina only.

⁶The very first self-report delinquency study in BH is currently being prepared by a group of international universities and institutions, including the Faculty of Criminal Justice Sciences, University of Sarajevo.