THE EVOLUTION OF ROMANIAN CRIMINAL AND CRIMINAL PROCEDURAL RULES APPLICABLE TO JUVENILE OFFENDERS

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Abstract

With the evolution of societies, this trend to punish offenders has undergone substantial changes. Thus, ancient legislators began to gradually express concern for the adoption of a different criminal sanction regime for juvenile offenders. Through the given research we want to analyze the evolution of the criminal and criminal procedural rules applicable to Romanian juvenile offenders.

Keywords: *educational measure, minors, Romanian Criminal Code, sanctions.*

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2. Content

Section I: The treatment of criminal juvenile offender under the previous provisions of the Criminal Code of 1969

I.1 In Roman Law

The eminent professor Ioan Tanoviceanu highlighted in his book that ”the old used to punish children even with death” and gave as an example the testimony of Quintilian who claimed that the Areopagus of Athens put to death a child who had pulled out the eyes of a bird[1].

With the evolution of societies these trends to punish offenders have undergone substantial changes. Thus, ancient legislators began to gradually express concern for the adoption of a different criminal sanction regime for juvenile offenders.

In this respect, the Roman law through the law of the XII tables, divided minors into two categories; puberus and impuberus, respectively, puberty being of 14 years for boys and 12 years for girls.

Unlike puberus, impuberus benefited from a diminished criminal responsibility which drew lighter sanctions. For example, in case of a theft the puberus was beaten with rods and the victim had the right to kill him, whereas the impuberus was punished only with the rods and forced to compensation[2].

In Justinian’s legion, The Digests, we may notice an improvement in the condition of juvenile offenders. Thus, it was stipulatedthat the child up to 7 years old (infans) was absolutely unable to get administered criminal responsibility, the one between 7 and 12 years old, 14 respectively for girls (infans proximus) was liable for criminal responsibility only if he committed the act with knowledge, and the one over 12, 14 respectively for girls (pubertati proximus) was liable for criminal responsibility.

We find similar regulations in the Canon law as well as in the French, Italian and German Law [3].

I.2 Legislations in the Romanian Countries

In the XVI-XVII centuries the idea of excluding minor penalty began to advance and part of the XIX century codes, thanks to the promotion of the principle of particularization of penalties some special provisions applicable to juvenile delinquents were established. The first Romanian regulations containing references to minority status were ”The Romanian Book of Teaching” by Vasile Lupu in 1646 in Moldavia and ”The Correction Law” by Matei Basarab in 1652 in Wallachia.

These codices contained 16 causes of removal or mitigation of punishment, including the age of the offender list:

Before the age of 7 the minor is not criminally liable, ”the cocoons are forgiven of everything, no matter the mistake”;

Between 7 and 14 years old for boys and 7 to 12 years old for girls the minority represented a mitigation question;

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[1] Ioan Tanoviceanu, *Law Treaty and criminal procedure*, edition II, (Tipografia Curierul Judiciar, Bucureşti 1924, vol. I) p. 695.

[2] OrtansaBrezeanu, *The history of minor criminal sanctions regime in Romania*, („Penal law review”, no. 2/1995), 85.

[3] Ioan Tanoviceanu, op. cit., 696-697.

Between 14 and 20 years old for boys and 12 and 25 for girls a regime of diminishing mitigating sanctions was instituted, mistakes will be less punished, except the extremely serious facts."

In the same time, The Romanian book of Teaching also stated that "those under 25 years old will be less punished for the mistakes"[4].

Similarly, The Chronicle of Criminal anaphora by Armenopol from 1799 stated that minorities constitute a mitigating issue[5].

The Legal Manual, by Andronache Donici from 1814 in Moldavia, unlike the legislations above, was a real setback since it stated without making any distinction between major offenders and the minor ones, that the willingly killer shall be punished with the punishment of the head, no matter the age[6].

The Criminal Book, by Ion Sandu Sturza from 1826 and applicable in Moldavia, as well as The Criminal Book, by Stirbei Barbu, come into force in 1852 in The Romanian Country, represented an important step towards the transition to modern criminal codes existing at the time.

It is emphasized the fact that in these legislative works, the juvenile criminal liability has been increased[7]:

Before the age 8 years old the minor is not criminally responsible;

Between 8 and 15 years old, if it was proved that he acted "without knowledge and without thinking" the juvenile deliquent supervision was entrusted for care to parents. But if he acted „"inteligently", according to the nature and extent of crime or guilt", both the punishment and the place of execution was established;

Between 15 and 21 the minor was liable for criminal responsibility.

I.3 The Criminal Code of 1865

Entered into force on May 1, 1865 under the reign of Alexandru Ioan Cuza, the first Romanian Penal Code[8] removes diversity from the criminal matters, by replacing the Criminal Code of Ioan Sandu Sturdza from Moldavia and the Criminal Code of Barbu Ştirbei from Wallachia.

Similarly to the above regulations, the legislature of the code in 1865, devotes under the Title VI of Chapter I, entitled "The Causes defending against penalty or reduces punishment" (art. 61- 65), provisions applicable to juvenile offenders.

It may be noted that criminal liability entails significant differences in the sense that:

a) before the age of 8 years old the minor was not criminally responsible and could not be subjected to civil damages;

b) between 8 and 15 the juvenile delinquent was liable for criminal responsibility if it was proved that he acted "with knowledge";[9]

Where it was appreciated that the minor in question had not "worked skillfully," the court either entrusted the custody to his parents for supervision and education, or sent him to the monastery for a period of time no longer than the age when the offender turned 20;

c) between 15 and 20 years oldthe juvenile was liable for criminal responsibility, but a minority represented a mitigation.

Also in art. 63 of the Penal Code. it was provided that "when it was decided that the accused had worked skillfully or he was older from 15 years full to 20 years full, penalties would be decided as it follows ":

- If his offense is punished with hard labor for life or limited time he will be convicted from 3 years to 15 years in prison.
- In other cases, the judge is authorized to apply imprisonment for a time at least equal to the third part or at most half the time which he could have been sentenced to one of the penalties relating to those cases. "

Regardless of the offense committed, the minor was applied only correctional penalties expressly provided which also attracted courts and correctional jurisdiction against those with jurors. This orientation of the criminal legislature led to the support of the opinion reasoned in the doctrine[10] that the crimes committed by minors were in fact offences and not crimes because they were sanctioned only by correctional penalties.

In the case of an offense by a minor together with a major the jurisdiction the offense was for the trial court jury except the case when the major participants major were dead or missing unjustified from the judgment of the case.

Regarding the arrangements for penalty, we think it is important to emphasize that the provisions

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[4] Ioan Tanoviceanu, op. cit., 698.

[5] Ibidem, op. cit. 698. An example can be given : " A murderer quarreling with a man hit him twice with the ax and cut his throat. The boyars who judge him in 1799 quote Armenopol, Book VI, Title VI, prescribing cutting the hand, but because "it was insurmountable for the lawful age" they proposed two years of prison. The Lord gives three years of prison. ".

[6] Ibidem, op. cit. 698.

[7] Maria Coca-Cozma, Cristiana Mihaela Crăciunescu, Lavinia Valeria Lefterache, *Juvenile justice.Theoretical studies and jurisprudence. Analysis of legislative changes in the field.*, (Ed. Universul Juridic, București, 2003), 56.

[8] Penal Code from 1865 was promulgated on October 30 1864 and implemented on May 1865.

[9] The provisions of the Criminal Code of 1865 were incomplete in regard to the concept of " knowledge" the legislature preferring to leave it to the discretion of the judge. Professor Ioan Tanoviceanu argues in his book that the correctional courts were doing incorrectly because they first examined whether the deed required the implementation of punishing or penalty and later declared that the juvenile delinquent acted with knowledge.

[10] Ioan Tanoviceanu, op. cit., p.716.

of art. 64 provided for a derogation from the general law providing that imprisonment is executed in an "establishment specifically intended for this" or "in a separate part of the correctional house prison."

In this respect, the Regulation on the prison regime[11] has regulated that the penalties applicable to minors will be executed in the homes of convicted juvenile correctional education.

I.4 The Criminal Code of 1937

The entry into force of the Penal Code[12] and Criminal Procedure[13] in 1937, establishes a new punitive treatment and special rules of research and trial of juvenile offenders, considerably improved.

The material is also to be found in the Criminal Code in Title VII - "The causes that defend the criminal or diminish the punishment", Section XI - "minority" art. 138- 153.

In the new conception of the criminal legislator all persons under the age of 19 were considered minor, while establishing criminal liability according to two stages:

a) before the age of 14, called childhood, the child is not criminally liable;

b) between 14 and 19 years old, adolescence, the juvenile is liable for criminal responsibility if it proved that at the time of the offense, he had acted with discernment;

Also, the legislature's Criminal Code of 1937 considered appropriate to replace the criterion of "knowledge" with discernment, thus managing to eliminate the existing conflicting discussions both in practice and from the doctrine[14].

The burden of proving the existence of discernment is the responsibility of the courts which could request a medical examination whenever there is doubt about the mental state of the juvenile delinquents. For the first category as well as for adolescents who committed the offence without discernment, according to art. 140 of the Penal Code. and art. 575 C. pr. pen., courts could order the following measures of educational, guardianship and protection, until the age of 21 years old:

1. the child custody entrusted family to oversee as well as the informing of the education authority in order to take disciplinary measures provided by the school rules;

2. reassignment to the closest relatives where juvenile offender had no family or if it this one did not present "sufficient guarantee of morality";

3. the custody entrusted to an honorable person patronage of a company or a public or private institution authorized by the State for this purpose if the minor had no relatives;

4. If the Court finds that the above measures couldn't be applied, it could order the juvenile offender to be entrusted to a moral re-education institute.

Regarding the enforcement regime of the minors criminally liable, this was the composite of educational safety measures (supervised freedom, corrective education) and penalties (reprimand, educational imprisonment or simple correctional detention).

By taking **supervised release**, the convicted juvenile was allowed to leave on a trial period of one year under the supervision of his legal representative or a public body created for this purpose, a judgment being deferred until the deadline. The measure could not be taken against the teenager who suffered imprisonment exceeding one month.

At the expiry of the above, the court, based on information received, was to consider whether it was necessary to extinguish the criminal action as a result of improved juvenile delinquent behavior or if it was necessary to revoke supervised release and taking corrective education measure or the imposition of a sentence.

In terms of **corrective education** the court decides to take such action if, in relation to criminal antecedents, the living environment or the nature of the crime, finds that the juvenile offender was in a "state of moral decay."

The measure could be taken indefinitely, but until the age of 21 years old at the most and its execution was done in specially designated institutions under the guidance of a board of supervisors, to straighten the juvenile delinquent behavior until this one learnt a trade.

If the Supervisory Board determined, after the passing of a period of one year, that the child had improved his behavior, it could order his release on a trial period of two years.

Where two years after finding that the adolescent behavior has evolved the release became final and otherwise, the court could decide admission to an institute of remedial education until the age of 21 years at the most.

The **reprimand** punishment consisted of the minor reprovment instruction in the offense and his warning that in case of committing a new criminal offense will be subject to a more serious penalty.

Reprimand may not be ordered where the teenager has committed an offense for which the law stipulated correctional imprisonment or simple detention exceeding one year or if it has committed an offense for which he has been applied any of the safety measures.

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[11] Decree no. 1002/1874 General Regulations of the Juvenile Correction Center , published in the Official Gazette . no. 104 of May 14, 1874.

[12] Criminal Code of Carol II published in the Official Gazette no. 65 of 18 March 1936 entered into force on January 1, 1937.

[13] Code of Criminal Procedure of Carol II published in the Official Gazette no. 66 of 19 March 1936 entered into force on January 1, 1937.

[14] Ioan Tanoviceanu, op. cit., 716.

The correctional imprisonment or simple imprisonment are executed in special institutions and it could be applied to the juvenile delinquent for a period:

1. from 3 to 15 years if the offense was punishable by law with "criminal punishment";

2. half of the limits of punishment if the offense was punishable by law with correctional imprisonment or simple imprisonment, but the maximum punishment can not be more than 3 years.

In the event that a major was trialed for an offense committed during the period in which he was aged between 14 and 19, it was the task of the court to apply the penalties outlined above.

Regarding criminal liability prescription as well as the sentence execution, we specify that the legislature's Criminal Penal Code of 1937, unlike 1865, manages to register a new breakthrough. Thus it is established by way of exception that in the case of the offenses committed by minors, the limitation periods set for adults are reduced by half.

Shortly after the entry into force of the 1937 Criminal Code, this one has undergone important amendments and additions applicable to criminal treatment of minors[15]:

a) the decrease of penal majority from 19 to 18;

b) the replacement of child and adolescent notions with that of the minor;

c) the lowering of the age at which he was liable for criminal responsibility from 14 to 12 years;

d) between 12 and 15 the juvenile was liable for criminal responsibility if it was proved to have acted with discernment;

e) between 15 and 18 the minor was liable for criminal responsibility, but the minority is a question of mitigation.

Also, by Decree Law no. 3629/1939[16] the legislature inserted into art. 144 of the Penal Code. a provision that was a real setback in the matter of the minority. Thus, the juvenile offender over 15 found guilty of offenses which related to public order inside or outside safety of the state was liable to the same sanction regime as for adults.

In terms of the Criminal Procedure Code in 1937, it contains derogations for the minor offender under Title I, Book a- VI entitled "Special procedures and measures of public interest".

Juvenile defendants are of the exclusive competence of specialized panels composed of a single judge, appointed by the Minister of Justice for a term of three years on the recommendation of the President of the tribunal, of the tribunal judges.

However, in the courts with several departments, senior prosecutor was obliged to appoint a prosecutor to settle only juvenile cases.

Where a criminal offense is committed with the participation of majors with minors criminally liable or if a major is prosecuted for crimes committed when he was a minor common law procedure is applied under the jurisdiction of the courts.

The complaints or the denunciations related to injuries created through crime by minors exclusively address the specialized court.

In this respect, the criminal procedural legislator has established the requirement of conducting research and training with these cases, by juvenile courts, the prosecutor and the defense of the minor having the right to attend the investigation.

Also, the Public Ministry had to submit a report containing the conclusions regarding the act and the existing evidence as well as the proposals regarding the measures it considers appropriate.

During the investigations were gathering information on the moral and material situation of the family of the minor character on his history, on the conditions under which he grew up and on his intellectual development.

Similarly to the current provisions in force, during investigations the court may order preventive measures.

With the completion of investigations, the court set a hearing or it could obtain dismissal by closure, if it was not considered when necessary to take protection measures.

At the first hearing, the court was obliged to verify that juvenile delinquent has legal aid and otherwise it could appoint a lawyer.

In order to protect the juvenile, the court proceedings were not made public, the people who could witness the debates being exhaustively provided. After hearing the juvenile the court had to order his removal from the courtroom.

Decisions and actions taken against children were brought out by the tribunal's prosecutor, with the help of the police officers or judicial police agencies or companies of patronage.

The court could apply one of the preventive measures of art. 140 of the Penal Code, in the case of the minors exposed to committing offenses under criminal law, as well.

The Penal Code of 1936[17] reissued in 1948 did not bring significant changes to the existing penal provisions at the time.

Not the same can be said about the Criminal Procedure Code, republished in 1948[18] and fully

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[15] The Law of 24 September 1938 published in the Official Gazette no. 222 of the same date.

[16] Published in the Official Gazette no. 233 of October 7, 1939.

[17] Published in the Official Gazette no. 48 of 27 February 1948.

[18] Published in the Official Gazette no 36 of 13 February 1948.

amended by Decree No. 186/1949[19] and no. 198/1950. By these acts, special provisions applicable to research and trial of the juvenile offenders have undergone many reforms.

Thus, according to the new provisions the offenses committed by minors under 15 years old were judged. according to the power and the ordinary proceedings, by the ordinary courts, apart from the cases where the law provided otherwise.

The judge had all the powers of criminal prosecution body being able to delegate the performance of certain acts of research to the militia officers or judicial organs of social assistance.

On completion of the research, the judge, in relation to the seriousness of the offense, may order the prosecution filing or settlement.

The new regulation was kept on holding hearings provision, people can participate, whilst stability I that the proceedings of flagrant crimes could not be applied when judging juvenile offenders under 15 years old.

Changes in the prosecution and trial of offenders have been brought by Decree no. 213/1960 amending the Code of Criminal Procedure.

Tracking offenders are carried out according to common law procedure except as otherwise expressly provided.

To carry out criminal prosecution had summoned a parent, guardian or person in whose care the minor guardianship authority and delegate to be present.

The new provisions also require and social inquiry by the prosecuting authority itself or by the guardianship authority.

One positive aspect worth mentioning is the mandatory legal assistance in the prosecution of juvenile defendants.

Regarding the trial of cases involving minor offenders, exclusive jurisdiction in the first instance the responsibility of a special panel who could appreciate the special status of the juvenile delinquent, consisting of judges specially appointed Minister of Justice and judges of the people.

The legislator also extend the jurisdiction of the court and to the causes that with minors and majors were judged criminally liable or where the minor age of 18 during the trial.

The new regulation kept the provision regarding the people who can participate, whilst establishing as well that the proceedings of flagrant crimes could not be applied when judging juvenile offenders under 15 years old.

Changes in the prosecution and trial of offenders were brought by Decree no. 213/1960[20] amending the Code of Criminal Procedure.

The tracking of the juvenile offenders was carried out according to common law procedure exceptthe derogationss expressly provided.

To carry out criminal prosecution one of the two parents had to be summoned to be present, the guardian or the person in whose care the minor was, as well as the guardianship authority delegate.

The new provisions also require social inquiry made by the prosecuting authority itself or by the guardianship authority.

One positive aspect worth mentioning is the mandatory legal assistance in the prosecution of juvenile defendants.

Regarding the trial of cases involving minor offenders, the exclusive jurisdiction in the first instance was the responsibility of a special panel who could appreciate the special status of the juvenile delinquent, consisting of judges specially appointed by the Minister of Justice and judges of the people.

The legislator also extends the jurisdiction of the court regarding the causes in which, together with the minors criminally liable, the majors were judged as well, where the minor turned 18 during the trial.

Proceedings in cases involving juvenile defendants were nonpublic, except the situation in which juvenile defendants over 15 years were tried with adult defendants.

In cases involving juvenile defendants, the prosecutor and the lawyer's presence was mandatory.

Taking preventive measures against minors aged between 10 and 18 exposed to the commission of the offense shall be ordered by the court or by the prosecutor's proposal or the guardianship authority.

Pending a decision in this regard, the minor may be detained by police bodies.

If the court notification was not made within 5 days of arrest, detention extension measure couldbe taken, but only by the prosecutor and for a period of maximum 30 days.

During detention, to motivate the document instituting the proceedings, social investigation had to be carried out by the guardianship authority.

Judgment in cases concerning the protection of minors exposed to commit criminal acts could be held urgently by the special panels mentioned above. Listening to the minor was mandatory and the court could hear evidence or dispose of restoration or completion of the social investigation, situation that drew the return of the file of the guardianship authority.

If a sentence was delivered regarding a protection measure, it was also agreed on the persons who owed maintenance according to civil law, the mandatory contribution to the costs that the state supports for the maintenance of the minor.

[19] Published in the Official Gazette no 25 of 30 April 1949.
[20] Published in the Official Gazette no. 9 of 18 June 1960.

At the request of the guardianship authority of the prosecutor or any interested person, the court may lift the measure taken before the period when the minor reaches the age of 18.

In similar circumstances, the court may order the extension of the measure which establishes that the juvenile remains in the rehabilitation institute, with no more than 2 years over the age of 18, if deemed necessary.

As regards the arrangements for enforcement of criminal sanctions applicable to juvenile delinquents or to those exposed to commit criminal acts, we think it is important to note that the law on the organization of prisons and institutions for prevention from 30 July 1929 following institutes were regulated[21]:

1. correctional institutions for juvenile convicts who are serving a sentence;
2. forced education institutes for the minors unsuitable for penal code;
3. institutes of protection for abandoned minors, vagabonds, mentally retarded and ill mannered who were prone to committing crimes.

Section II: The treatment of juvenile offenders according to the Criminal Code of 1969 and subsequent legislation

Penal Code which entered into force on 1 January 1969 gives expression to the principles of the classical school and the positivist one in the senseof their contemporary acception, it reflects the Romanian legal thinking, the experience of our country and of other countries in criminal justice and it takes into account the Romanian tradition in this matter[22].

Unlike the previous regulation which provided the minority only among the causes responsibility that defend the criminal or shrinks it, The Criminal Code of 1969 devotes to this matter a distinct title, Title V of the General Part, respectively.

We also want to highlight the fact that the new criminal enactment records a new breakthrough in that it provides minority among the causes eliminating the criminal nature of the act.

This change had as justification the fact that it was appreciated that the lack of discernment directly affects the criminal guilt offense and the existence of the offense implicitly.

In this regard, according to the doctrine[23] that existed at the time, through causes eliminating the criminal nature of the act it was meant those conditions, situations or circumstances whose existence during the commission of the crime make it impossible to carry out one of the essential features of crimes.

It is worth mentioning that the criminal legislature opted for increasing criminal liability limits thus the minor:

a) before the age of 14 is not criminally liable;

b) between 14 and 16 criminal liability only if it is proved that he committed the offense under the criminal law with discretion;

c) between 16 and 18 held criminally responsible.

Regarding the enforcement regime of the juvenile offender, the Criminal Code of 1969 establishes a mixed system composed of sanctions educational measures and punishments.

For a sanction of the two categories listed above the court was to assess the seriousness of the offense committed and analyze the physical status, intellectual development and welfare of the juvenile delinquent, his behavior, the conditions in which the child was raised and any other items capable of representing his person.

It is essential to note that the penal provisions provided for a prioritized enforcement of educational measures as opposed to punishment. The court may pronounce a sentence to execution of a sentence only if it considered that "taking an educational measure would not be sufficient to rehabilitate the minor." [24]

In this case we exemplify the following judicial practice [25]:

By penal No. 77 of 4 April 2002 the Court of Brasov the juvenile defendants R. A and D.A.G. were convicted to the 3-year imprisonment for the offense of robbery.

Defendants appealed against the sentence asking for sentence reduction.

The appellate court found that the sentence is objectionable in terms of judicial individualization of the penalty imposed to the minor defendant as the prosecution file follows that:

1) before committing the crime the defendants had behaved totally improperly in family and society,disobeying the authority and supervision of the family;

2) both defendants were from broken homes;

3) the transcripts of the two defendants showed they were both repeaters in several years.

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[21] Ioan Chiș, Alexandru Bogdan Chiș, *Execution of criminal sanctions*, (Ed. Universul Juridic, București, 2015), 47.

[22] Costică Bulai, Nicolae Bogdan Bulai, *Manual of criminal law. General part*, (Ed. Universul Juridic, București, 2007), 79.

[23] Vintilă Dongoroz et al. *Theoretical explanations of the Romanian Penal Code. General part*, (Ed. Academiei Române, Ed. All Beck, 2003, vol. I), 298.

[24] The doctrine held that through the expression " take an educational measure would not be not sufficient " should be understood both the fact that by an educational measure would not be able to ensure the rehabilitation of the minor as well as the situation where, in comparison to the age close to major of the minor where the educational measure could not be executed over a period sufficient to ensure effectiveness . – Vintilă Dongoroz et al. , op . cit. 227.

[25] Brasov Court of Appeal, Criminal Division, Decision no. 113 / AP June 12 , 2002, in Maria-Crina Kmen, Ruxandra Rata, op . cit. 40.

In relation to all these elements that characterize the two defendants, the court of appeal considered it appropriate to apply an educational measure such as internment in a rehabilitation center.

As educational measures they regulated, reprimand, supervised freedom, internment in a rehabilitation center, hospitalization in a medical-educational.

By applying the reprimand measure the child was scolded by the court that explained to him the social danger of the crime committed and he was advised to direct his behavior under the warning that if he commits a criminal offense he will have a more severe educational measure or will be subject to punishment

Supervised freedom consists in allowing the minor in liberty for one year under the supervision of parents or of a guardian and in warning the juvenile delinquent of the consequences of his behavior. In case the court considered that they could not provide supervision satisfactorily juvenile custody supervision was disposed to a trustworthy person, preferably a closer relative, at his request, or to an institution legally responsible for the supervision of minors.

Also, during the execution of the measure, the court may impose juvenile delinquent to fulfill one or more obligations, namely: a) not to frequent certain established places; b) not to come into contact with certain persons; c) to perform without remuneration work in a public institution set by the court, lasting between 50 and 200 hours, no more than 3 hours per day, after school, on public holidays and vacation.

If the court considered that the educational measures outlined above are not sufficient to straighten the conduct of the minor, it could dispose of internment in a rehabilitation center, through which it was provided the opportunity to acquire the necessary teaching and professional training according to his skills.

The measure of internment in a medical-educational institute could be applied to juvenile delinquents who needed medical treatment and a special education due to their physical or mental state.

Penalties that could be imposed were imprisonment or a fine provided by law for the offense committed reduced by a third and the minimum punishment after this reduction may not exceed 5 years. If the offense is provided for the death penalty for the minor the penalty shall apply from 5 years to 20 years.

The doctrine[26] was argued in the courts by asserting that the court dealing with the trial that juvenile offenders should first determine which of the two categories of sanctions was the right and only after analyze concretely what penalty was to be imposed.

In all cases, convictions for offenses committed during minority do not entail any disability or limitation.

Among the ways to individualize the sentence of imprisonment it was provided the possibility of conditioned suspended sentence and suspended sentence under supervision or control.

Similarly with criminal Legiuirea from 1937 on criminal offenses committed by minors limitation periods and criminal liability of the sentence were halved.

Shortly after the entry into force of the provisions of the Criminal Code of 1969 it was assessed as appropriate waiving the joint enforcement regime applicable to minor offenders that date in favor of a sanctioning system composed exclusively of educational measures.

In this regard it was adopted Decree no. 218/1977[27] on certain transitional measures for penalizing and reeducation through labor of persons who have committed offenses under criminal law.

According to the law mentioned above, the minor criminal responsibility aged between 14 and 18 who commits:

1) an offense for which the punishment is imprisonment of more than five years, it had custody of juvenile delinquent in working or learning team while establishing "strict discipline and behavior";

2) very serious offenses, could decide the extent of sending in special education and rehabilitation work centers over a period of 2-5 years.

In doctrine[28], some authors rightly opined that with the entry into force of the decree abovethe provisions of the Criminal Code on educational measures were implicitly repealed, except internment in a medical- educational institute. This conclusion stems from the imperative expression of Articles 2 and 3 of the Decree.

The express repeal[29] of Decree No. 218 / 1977 and Law No.59 / 1968 the whole concept on punishing the whole concept the juvenile offenders had returned broadly to the fundamental thesis of the original version of the current penal code.

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[26] Costică Bulai, Nicolae Bogdan Bulai, op. cit., 606;

[27] Decree no. 218 of July 12, 1977 published in the Official Gazette no. 71 of 17 July 1977 approved by Law no . 47 of November 25, 1977;

[28] Corneliu Turianu *Legal liability for criminal acts committed by minors*, (Ed . Continent XXI, București, 1995), 45;

[29] Decree no.218 / 1977 and Law no. 59/1968 were repealed by Law no. 104 of 22 September 1992 , published in Official Gazette no. 244 of October 1, 1992.

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