



# ALTERNATIVES TO CUSTODY FOR YOUNG OFFENDERS

NATIONAL REPORT ON JUVENILE JUSTICE TRENDS

Latvia



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# Latvia

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## A. Juvenile Justice

**A.1. Please describe the legal framework and the main characteristics of the juvenile justice system of your country.**

**A.1.1. Is there a special law or code regarding juvenile justice?**

**A.1.2. Which courts and other special authorities are responsible for the reactions of juvenile offending (criminal courts, specialized juvenile criminal courts, family courts, special prosecutors, police etc.)?**

**A.1.3. What is the scope (only criminal or also antisocial behaviour) of juvenile justice? How is the age of criminal responsibility regulated (please refer to the different age groups and include the legal definitions on “child”, “youth” and “young person”)?**

**A.1.4. Are there specific procedural rules for young persons and how do they differ from those for adults? Are due process guarantees respected?**

There is no special legal act that regulates the legal relationship in the field of juvenile justice in Latvia. However, this only means that the legislation is not built according to the type of the subject of legal relationships but of the type legal relations.

Considering the abovementioned, rights, obligations and responsibility of minors<sup>1</sup> are stipulated by several laws simultaneously:

<sup>1</sup> Protection of the Rights of the Child Law (2000), Section 3, Para 1: “A child is a person who has not attained 18 years of age”, <http://likumi.lv/doc.php?id=49096>.

1. Protection of the Rights of the Child Law<sup>2</sup> regulates rights, protection and freedoms of a child, taking into account that a child as a physically and mentally immature person has the need for special protection and care. This Law also regulates the criteria by which the behaviour of a child is controlled and the liability of a child is determined; regulates the rights, obligations and liabilities of parents and other natural and legal persons and the State and municipal governments in regard to ensuring the rights of the child, and determines the system for the protection of the rights of the child and the legal principles regarding its operation. At the same time, Protection of the Rights of the Child Law does not provide the responsibilities or sanctions for children;

2. Law on Application of Compulsory Measures of a Correctional Nature to Children<sup>3</sup> prescribes the types of procedures for application of compulsory measures of correctional nature to children. Compulsory measures of a correctional nature may be applied to children within the age range of 11 to 18 years,<sup>4</sup> if they have committed such offences or violations for which the law intends criminal<sup>5</sup> or administrative<sup>6</sup> liability. Compulsory measures of a correctional nature can actually be regarded as specially created alternative sanctions' system for children from 11 years old to adulthood. However, not all compulsory measures of correctional nature can be considered sanctions – among the compulsory measures, there are some that resemble diversion<sup>7</sup> methods. These so called alternative methods have both strengths and weaknesses: on a positive note, in cases of administrative violations and criminal offenses, there is a possibility to apply a measure that corresponds to the needs of a child that not only punishes him or her. On a negative note, in practice these measures are applied relatively rarely.

3. The Latvian Administrative Violations Code<sup>8</sup> determines which action or inaction is acknowledged as an administrative violation,<sup>9</sup> and what administrative sanction, by which institution and in accordance with which procedures may be imposed upon a person who has committed an administrative violation. Thus, according to Latvian Administrative Violations Code,<sup>10</sup> an administrative violation could be acknowledged

2 Ibid, Section 2, <http://likumi.lv/doc.php?id=49096>.

3 Law on Application of Compulsory Measures of a Correctional Nature to Children (2003), <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

4 Ibid, Section 3, <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

5 The Criminal liability in Latvia is provided by Criminal Law (1998) to all persons from 14 years old, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

6 The Administrative liability is provided by Latvian Administrative Violations Code (1985), <http://likumi.lv/doc.php?id=89648>.

7 For more detailed explanation on the issue please see A.2.2.

8 The Administrative liability is provided by Latvian Administrative Violations Code (1985), <http://likumi.lv/doc.php?id=89648>.

9 In Europe there are a number of countries where responsibility on all the harmful / punishable acts are included within common Penal Law, but in the Latvian Law the responsibility for such activities is provided in two separate laws - on less harmful offenses is provided administrative responsibility, but on more serious offenses - criminal liability.

10 The Administrative liability is provided by Latvian Administrative Violations Code (1985), Section 9, <http://likumi.lv/doc.php?id=89648>.

as an unlawful, blameable (committed with intent or through negligence) action or inaction, which endangers State or public order, property, rights and freedoms of citizens or management procedures specified and regarding which administrative liability is specified in the Law. Administrative liability arises regarding violations indicated in the Administrative Violations Code if criminal liability has not been foreseen for these violations. Persons of 14 years of age or over on the day of committing an administrative violation can be held administratively liable. If a child is between 14 and 18 years of age and has committed an administrative violation, a compulsory measure of a correctional nature can be applied. Similarly, a child from 11 to 14 years of age can be subject to a Compulsory measure of a correctional nature if he or she has committed a violation for which administrative liability is foreseen. In accordance with the Latvian Administrative Violations Code,<sup>11</sup> administrative sanctions shall be applied by municipal Administrative Commissions or, in some cases,<sup>12</sup> by city/district courts. Currently, the penalty system of the Administrative Violations Code is designed in a way that can, in fact, lead to inappropriate<sup>13</sup> sanctions for children. If an administrative violation is committed by a child, in most cases two types of sanctions are applied - a warning and a fine. The fine, however, is usually paid by the parents of the child (offender) as most children do not have their own income at this point. In other administrative violation cases, compulsory measures of a correctional nature<sup>14</sup> are applied.

4. The Criminal Law<sup>15</sup> provides regulations of all issues related to the criminal liability of juveniles. In accordance with Criminal Law,<sup>16</sup> an act can be considered a criminal offence if it is committed deliberately (intentionally) or through negligence, and for which criminal punishment is provided by Criminal Law. Criminal Law<sup>17</sup> stipulates that a person can be held criminally liable if on the day of committing the criminal offence, they were at least 14 years old. An underage person, who is not yet 14 years old, cannot be held criminally liable. The Law includes Chapter 7,<sup>18</sup> which determines the differences within phenomena of criminal liability of juveniles from adults. Separate arrangements are foreseen by Law in cases when punishments are being applied to juveniles, when compulsory measures of a correctional nature (diversion method) are applied and when

11 Latvian Administrative Violations Code (1985), <http://likumi.lv/doc.php?id=89648>, Section 210.

12 Ibid, Section 31.

13 Ibid, Section 23; Administrative sanctions which may be applied for the commitment of an administrative violation are: a warning; a fine; the confiscation of the administrative violation object or the instrument of commitment; a forfeiture of special rights assigned to a person; a prohibition to obtain the right to drive a means of transport for a certain period of time; a prohibition for a specified period to obtain a license to drive a car; a forfeiture of rights to hold particular offices, or the forfeiture of rights to specified or all forms of commercial activities; administrative arrest, which is not applicable to children.

14 According to Court Information System statistics (TIS) in administrative cases is applied in average per year up to 40 children <http://ej.uz/h9yf>.

15 Criminal Law (1998), <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

16 Ibid, Section 6.

17 Ibid, Section 11.

18 Criminal Law (1998), Sections 64 – 67, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

suspended sentence is imposed.

5. Criminal Procedure Law<sup>19</sup> (2005) determines the order of criminal procedure – investigation of a criminal offence, criminal prosecution, and the trial of a criminal case – that ensures the effective application of the rules of Criminal Law and the fair regulation of criminal legal relations without unjustified intervention into the life of a person. The Criminal Procedure Law envisages different treatment of minors in all stages of criminal proceedings: in relation to criminal proceedings, application of sanctions, decision making process on the status of a minor in criminal procedures and other issues.

6. Specific aspects related to juvenile detention and sentence execution in a prison are regulated by two special laws:

- The Law on Procedures Keeping the Persons in Custody<sup>20</sup> determines procedures by which the persons are held in pre-trial detention;
- Law on the Procedures for Holding the Detained Persons<sup>21</sup> prescribes the procedures for holding the persons detained in accordance with the Criminal Procedure Law at specially equipped police premises – at a temporary place of detention;
- The Sentence Execution Code of Latvia<sup>22</sup> regulates the provisions and procedures of the execution of criminal sentences provided for in the Criminal Law, the legal status of convicted persons and the competence of the State and municipalities in the execution of sentences.

The legal liability of juvenile persons and regulatory law is analysed in more detail in the research paper<sup>23</sup> “Child-friendly Justice in Latvia: Focusing on Crime Prevention” (2012).

Bearing in mind the fact that, unlike in many other countries, there is no separately developed Juvenile Justice system in Latvia, it is rather difficult to indicate institutions that work only within the field of Juvenile Justice.<sup>24</sup> Most of the law enforcement agencies which are responsible for crime prevention in general, are simultaneously responsible for prevention and mitigation of juvenile crime. All law enforcement agencies in Latvia, however, are legally bound to the above mentioned provisions (please see A.1.1.) when

19 Criminal Procedures Law (2005), <http://likumi.lv/doc.php?id=107820>.

20 The Law on Procedures Keeping the Persons in Custody (2006), <http://likumi.lv/doc.php?id=138990>.

21 Law on the Procedures for Holding the Detained Persons (2005), <http://likumi.lv/doc.php?id=119371>.

22 The Sentence Execution Code of Latvia (1970), <http://likumi.lv/doc.php?id=90218>.

23 I. Kronberga, J.Zermatten, Child-friendly Justice in Latvia: Focusing on Crime Prevention (2012), Pages 27 - 34; [http://www.providus.lv/upload\\_file/Projekti/Kriminalitesibas/Child-friendly%20Justice%20in%20Latvia.pdf](http://www.providus.lv/upload_file/Projekti/Kriminalitesibas/Child-friendly%20Justice%20in%20Latvia.pdf).

24 A.Judins, “Restorative Justice vs. Juvenile Delinquency: the Baltic States in the European Dimension” (2009), Page 10; [http://www.providus.lv/upload\\_file/Projekti/Kriminalitesibas/RJ\\_research.pdf](http://www.providus.lv/upload_file/Projekti/Kriminalitesibas/RJ_research.pdf).

addressing the issues of minors as they are distinguished from the general regulations. These provisions must be followed in all cases related to minors. All the activities that are carried out by the state within the field of juvenile justice, can be divided between preventive and reactive. At the prevention level, local governments' social services and specially established municipal administrative committees for working with children deal with the minors before any kind of offence foreseen in the law is committed (primary prevention), municipal police (primary and secondary prevention) and State police deals with the issues at later stages (secondary and tertiary prevention).

Preventive work with minors is not regulated in one legal act as separate provisions can be found in several laws, for instance, The Law on Police,<sup>25</sup> Latvian Administrative Violations Code,<sup>26</sup> Law on Application of Compulsory Measures of a Correctional Nature to Children<sup>27</sup> as well as the Protection of the Rights of the Child Law<sup>28</sup> where the last of the mentioned stipulates that work with children for the prevention of violations of law is carried out by municipal governments in collaboration with the parents of children, educational institutions, the State police, public organisations and other institutions. Local governments are responsible for the establishment of a prevention file and they formulate a social behaviour correction and social assistance programme for each child who:

- Has committed a criminal offence and is not in detention during the pre-trial investigation period.
- Is found guilty of commission of a criminal offence, but whose sentence is not connected with deprivation of liberty.
- Is released from criminal liability.
- Is released from imprisonment or from the place where he or she is serving sentence.
- Has committed, prior to attaining 14 years of age, illegal acts as set out in The Criminal Law.
- Has committed illegal acts as set out in the Administrative Violations Code more than two times.
- Beggars, is vagrant or performs other acts which may lead to illegal actions.

If a child behaves in a way that can harm his or her safety and well-being or the police

25 The Law On Police, Section 3, <http://likumi.lv/doc.php?id=67957>.

26 Latvian Administrative Violations Code (1985), Section 210, <http://likumi.lv/doc.php?id=89648>.

27 Law on Application of Compulsory Measures of a Correctional Nature to Children (2003), <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

28 Protection of the Rights of the Child Law, <http://likumi.lv/doc.php?id=49096>.

officer has found grounds to believe that the child has committed an offence, a decision to convey the child to police office can be made. However, such decision can be made only in cases foreseen by Article 59 of Protection of the Rights of the Child Law, namely, if a child:

- Has committed activities for which criminal liability is provided;
- Has committed an administrative violation, if it is not possible to otherwise determine the identity of the child and to draw up an administrative violation report;
- Is found in a public place in a state of intoxication;
- Is begging;
- Has not attained 16 years of age and is found in a public place at night without the supervision of parents, guardians, foster family or their authorised representative of legal age. Within the meaning of this Section the night-time shall mean the time period from 10:00 PM to 6:00 AM, if the relevant local government has not specified stricter restrictions in relation to the time period;
- Is lost or abandoned, or is found in such circumstances as are dangerous for a child or may harm his or her development;
- Has arbitrarily left his or her family, guardian, foster family or child care institution.

The conveyance of a child to the police office is permissible if it is not possible to provide assistance to the child in any other way. In cases where the police determine that the child is vagrant, begging, intoxicated with narcotic or toxic substances or alcoholic beverages or there is an unfavourable family environment or if other circumstances exist and may be harmful to the child, police must inform the relevant Orphan's court.

If State Police has founded grounds to suspect a minor of committing a criminal offence, a decision to initiate criminal proceedings can be made<sup>29</sup> and security measures can be applied. If criminal proceedings are initiated against a minor, it has to be addressed as priority over adult cases.<sup>30</sup> Pre-trial detention can be applied only in exceptional cases – if a very serious crime is committed or the minor avoids fulfilling one's procedural obligations. Altogether, detention cannot exceed the period of one year<sup>31</sup> (including the initial detention at police office). Detention period for minors is reviewed within strict frequency foreseen by law and detention is revoked as soon as the circumstances under

29 Criminal Procedure Law, Section 6, <http://likumi.lv/doc.php?id=107820>.

30 Ibid, Section 6, <http://likumi.lv/doc.php?id=107820>.

31 Ibid, Section 273.

which it was applied have changed.<sup>32</sup> In all cases, detention is applied by investigatory judge. The person directing the proceedings (police or prosecutor) has to prove the necessity of applying detention each time it is applied. If there are no grounds to keep the suspected or accused minor in detention, but at the same time, there is no confidence that without similar security measures the minor will fulfil the procedural obligations and in fact, they might commit a new offence; the minor can be placed in a closed type of educational institution for social correction. This kind of decision leads to substantial limitations of one's freedom. In Latvia, there is one educational institution for social correction.<sup>33</sup> Specially trained police officers are direct the pre-trial criminal proceedings if a minor is involved,<sup>34</sup> however, a wider range of persons are entitled to direct the proceedings in cases of specific offences. The investigation process is supervised by a prosecutor. If a minor has not reached the age of 14 years, this is a reason to release the person from criminal liability and the police officer can make the decision to send the materials of case to court for appliance of compulsory measures of a correctional nature.<sup>35</sup> The prosecutor receives case materials from police officer after the pre-trial investigation is finished. The minor shall be held criminally liable in public prosecution proceedings, if the evidence gathered in an investigation indicates one's guilt in the criminal offence being investigated, and the public prosecutor is convinced that the evidence sufficiently confirms such guilt.<sup>36</sup> The prosecutor may dismiss criminal proceedings, conditionally releasing minor from criminal liability if convinced that the minor hereinafter will not commit criminal offences.<sup>37</sup> In order to obtain information on minor's personal characterising data, prosecutor is entitled to require person's evaluation report from State Probation Service of Latvia. This kind of decision can be made in cases of less serious crimes and if the minor has not been previously punished for an intentional criminal offence. After the decision, minor is under supervision of State Probation Service for the time indicated by the prosecutor.

If a minor has committed criminal violation or a less serious crime and public prosecutor, taking into account the nature of the injury caused by the committed criminal offence, the personal characterising data, and other circumstances, has achieved the conviction that a penalty related to deprivation of liberty should not be applied to such person, yet such person may not be left without a penalty, he or she may end the criminal proceedings, drawing up an injunction regarding a penalty.<sup>38</sup> In order to obtain personal characterising data, a public prosecutor may request an evaluation report from the State Probation Service.<sup>39</sup> By such decision a sentence of a fine or community service as well as

32 Ibid, Section 278.

33 Educational institution for social correction „Naukšēni”, <http://www.naukseniskii.edu.lv/>.

34 Criminal Procedure Law, Section 386, <http://likumi.lv/doc.php?id=107820>.

35 Ibid, Section 392.1. <http://likumi.lv/doc.php?id=107820>.

36 Ibid, Section 402.

37 Ibid, Section 415.

38 Criminal Procedure Law, Section 420 <http://likumi.lv/doc.php?id=107820>.

39 Ibid, Section 420, Part 2.

additional sentence – limitation of rights or supervisions by State Probation Service can be applied to a minor.<sup>40</sup>

If none of the above described approaches can be used, the prosecutor transfers the case materials to court for trial. The court then examines if there are no such circumstances<sup>41</sup> that would constitute grounds for dismissing criminal proceedings, namely - a criminal offence has not caused harm that would warrant the application of a criminal penalty; a minor who has committed a criminal violation or a less serious crime has made a settlement with the victim; a criminal offence has been committed by a minor and special circumstances of the committing of the criminal offence have been determined, and information has been acquired regarding the minor that mitigates his or her liability; minor is a victim of trafficking in human beings and was forced to commit the crime that is being trialled.

If a court recognises that the accused who is a minor has committed a criminal offence, the court, observing the special circumstances of the commitment of such offence, and the information acquired regarding the guilty person, that mitigate the liability of such minor, may release him or her from the imposed sanctions and apply the compulsory measure of a correctional nature provided for by law. In applying compulsory measures of a correctional nature, a court must take into account the nature and danger of the criminal offence, the personal characterising data of the accused person, and the circumstances that aggravate and mitigate his or her liability.<sup>42</sup> If the court does not identify the abovementioned circumstance, punishments foreseen in the Criminal Law<sup>43</sup> can be applied to the minor in accordance with the seriousness of criminal offence.

The system of sanctions and the extent of sanctions is different for minors than it is for adults. If a child is convicted for committing a criminal offence, sentence is executed by State Probation Service (punishments without isolation from society and supervision within society) and Latvian Prison Administration (deprivation of liberty). If compulsory measures of correctional nature are applied, they are executed by municipal Social Services, State Probation Service (community service for children) and specialists from Educational institution for social correction. Protection of the Rights of the Child Law<sup>44</sup> indicates persons and institutions for which the carrying out of their direct responsibilities obligatory requires knowledge in the field of child protection, including – police officers, prosecutors, judges, specialists from State Probation Service and Latvian Prison Administration as well as other specialists working with children in any way.

In Latvia, there are two laws that define children's behaviour that are linked with

40 Ibid, Section 421.

41 Criminal Procedure Law, 379, part 1, <http://likumi.lv/doc.php?id=107820>.

42 Ibid, Section 522.

43 Criminal Law (1998), Section 65, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

44 Protection of the Rights of the Child Law (2000), Section 5.1, <http://likumi.lv/doc.php?id=49096>.

concrete sanctions – “Administrative Violations Code”<sup>45</sup> and “Criminal Law”.<sup>46</sup> Both laws foresee that the age of liability – administrative and criminal – is 14 years. However, in cases when a child is not 14 years old but has behaved in a way that is regulated by Administrative Violations Code or Criminal Law, in accordance with Law On Compulsory Measures of a Correctional Nature,<sup>47</sup> compulsory measures can be applied. Compulsory measures of a correctional nature may be applied to a child if he or she has committed such offence or violation for which the law intends criminal liability or administrative liability.<sup>48</sup> Compulsory measures of a correctional nature may be applied to children aged 11 to 18 years old.<sup>49</sup> Both Criminal Law and the Administrative Violations Code stipulate cases where compulsory measures of a correctional nature can be applied to children who are older than 14 years. This is a possibility to apply correctional measures as a sanction which will not include administrative or criminal consequences as there are no criminal or administrative records after these measures are applied – this is a crucial aspect for the future of the child. Looking at these provisions from a practical point of view, it is understandable that children can act in socially unacceptable way before they have reached the age of 11 years. Young children can also behave in way that will sooner or later lead to an offence or harm to oneself. In such cases specialists must follow the provisions of Protection of the Rights of the Child Law,<sup>50</sup> which stipulates that local governments (where the child resides) shall establish a prevention file and formulate a social behaviour correction and social assistance programme for the child.<sup>51</sup>

Bearing in mind the aforementioned and existing practice of legislation’s application, one can conclude that in Latvia child’s behaviour will be considered *antisocial* when prevention file is established and a social behaviour correction and social assistance programme is formulated (a) when an administrative punishment or compulsory measure of a correctional nature is applied (b) regardless the age of the child. Child’s behaviour will be considered as criminal behaviour when it leads to criminal responsibility in accordance with the Criminal Law and corresponding sanctions might be applied (c). From a point of view of established practice, behaviour should be regarded as criminal (evaluating it by the harm caused by actual actions) also in cases, when a child has not reached 14 years of age and that is why compulsory measures of a correctional nature is applied even though these specific harmful actions are forbidden in accordance with Criminal Law (d).

45 Latvian Administrative Violations Code (1985), <http://likumi.lv/doc.php?id=89648>.

46 Criminal Law (1998), <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03f>.

47 Law On Compulsory Measures of a Correctional Nature, <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

48 Ibid, Section 2, <http://likumi.lv/doc.php?id=68489>.

49 Ibid, Section 3, <http://likumi.lv/doc.php?id=68489>.

50 Protection of the Rights of the Child Law (1998), Section 58, Part 2, Subpoint 7, <http://likumi.lv/doc.php?id=49096>.

51 In this case, legal framework provides all the necessary tools for timely preventive reaction irrespective of child’s age. However, as shows the research of 2013 by Ombudsmen of Latvia, in many municipalities there is no or not enough work with children actually done. This situation derives from each municipalities’ different financial and human resources (for more information, please see <http://ej.uz/8y0j>).

When looking at the existing practice, it can be concluded that at the stage of its current development, juvenile justice in Latvia is between retributive and restorative justice. It is directly dependant on state's criminal policy as a whole and more so than on international and scientific recommendations. The United Nations and European Union institutions' recommendations and practical suggestions highlights the importance of creating unified, supportive and preventive system, not a punitive one, as this approach leads to juvenile justice becoming more effective and enables reaching the set goals. Juvenile Justice in Latvia, however, remains unwieldy, fragmented and develops slowly.<sup>52</sup>

The Civil Law of Latvia<sup>53</sup> stipulates that a person must be considered a minor before one has reached the age of 18 years, thus a *minor* is a natural persona till the age of 18 years. Youth Law<sup>54</sup> provides that a *youth* is a person from 13 to 25 years of age. In accordance with the Protection of the Rights of the Child Law,<sup>55</sup> a *child* is a person under 18 years of age with the exception of those that have been announced of legal age in cases foreseen by law or have married before the age of 18 years. Criminal Law stipulates that a person is underage before reaching the age of 14 years. From the whole context of Criminal Law, it can be concluded that within this law, a person is a minor between 14 and 18 years of age.<sup>56</sup> The same approach is used in Administrative Violations Code. It must be noted that the issue of minors' responsibility is addressed only in Criminal Law and Administrative Violations Code as Law on Compulsory Measures of a Correctional Nature provides only diversion approach to minors in cases when they have committed an offence or administrative violation.

Protection of the Rights of the Child Law<sup>57</sup> regulates that the State ensures the rights and freedoms of all children without any discrimination – irrespective of race, nationality, gender, language, political party alliance, political or religious convictions, national, ethnic or social origin, place of residence in the State, property or health status, birth or other circumstances of the child, or of his or her parents, guardians, or family members.

Minors have a special status in Criminal Law, Criminal Procedure Law and in Punishment Execution Code. There are concrete diversion procedures foreseen in Administrative Violations Code – using compulsory measures of a correctional nature instead of administrative punishment. Minors have different punishment types, the procedural time limits for decision making are shorter both within criminal and administrative

52 I. Kronberga, J.Zermatten, Child-friendly Justice in Latvia: Focusing on Crime Prevention (2012), Pages 18 - 19; [http://www.providus.lv/upload\\_file/Projekti/Kriminalitesibas/Child-friendly%20Justice%20in%20Latvia.pdf](http://www.providus.lv/upload_file/Projekti/Kriminalitesibas/Child-friendly%20Justice%20in%20Latvia.pdf).

53 Civil Law, Sections 2019 – 221, <http://likumi.lv/doc.php?id=225418>.

54 Youth Law, Section 1, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Youth\\_Law.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Youth_Law.doc).

55 Protection of the Rights of the Child Law (1998), Section 3, Para 1: "A child is a person who has not attained 18 years of age", <http://likumi.lv/doc.php?id=49096>.

56 Criminal Law (1998), Chapter VII, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03f>.

57 Protection of the Rights of the Child Law (1998), Section 3, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection\\_of\\_the\\_Rights\\_of\\_the\\_Child.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection_of_the_Rights_of_the_Child.doc).

procedures. Minors in detention facilities and during imprisonment are separated from adults and any mutual contact is forbidden. There are crucial differences during the interrogation process within criminal proceedings.<sup>58</sup> These differences are applied to underage persons (under the age of 14 years) who have obtained the status of a witness or a victim within the criminal proceedings. Law stipulates that underage persons can be interrogated only by a pedagogue or in presence of specifically trained psychologist.

In accordance with Criminal Procedure Law, each minor has a right to defence council ensured by the state.<sup>59</sup> Minors do not have the rights to refuse the defence council within criminal proceedings.<sup>60</sup> In addition to defence council, representative of the minor can also participate in criminal proceedings.<sup>61</sup> A representative can be one of the lawful representatives (mother, father, guardian, trustee); one of the grandparents, or a brother or sister of legal age, as long as the minor has lived together with one of such persons and the relevant relative takes care of the minor; a representative of an authority protecting the rights of children or a representative of a non-governmental organisation that performs the function of protecting the rights of children. The representative has the right<sup>62</sup> to support the minor within the duration of criminal proceedings, including participation in investigatory actions, to be present at the trial, to get acquainted with the materials of the case as well as to choose the defence council in the best interests of the minor.

Within the criminal proceedings, specific security measures are applied to minors if they are suspected or accused and avoid criminal proceedings or delay or hinder the progress of criminal proceedings. Minor can be placed in an educational establishment for social correction<sup>63</sup> or placed under the supervision of parents or guardians<sup>64</sup> - there are no such security measures foreseen for adults.

## **A.2. Please describe the sanctioning system regarding**

58 Criminal Procedure Law (2005), Section 152 and 153, <http://likumi.lv/doc.php?id=107820>.

59 Ibid., Section 83.

60 Ibid, Section 88.

61 Ibid, Section 89.

62 Criminal Procedure Law (2005), Section 90, <http://likumi.lv/doc.php?id=107820>

63 Ibid, Section 285, <http://likumi.lv/doc.php?id=107820>.

64 Ibid, Section 243.

## juvenile justice in your country.

**A.2.1. Please give an overview on the sanctions/reactions on youth offending at the different levels of criminal proceedings.**

**A.2.2. Which possibilities exist to divert a juvenile from a trial? (diversion structures/schemes, alternative authorities like special community councils which can impose certain measures)?**

**A.2.3. What types of interventions can the competent court impose?**

**A.2.4. Which forms of liberty depriving sanctions are provided? What is the minimum and what is the maximum length for liberty depriving measures?**

**A.2.5. What types of residential and custodial institutions exist for juvenile criminal offenders?**

**A.2.6. What does in practice happen with most juvenile offenders? Are they regularly subject to diversion schemes or to court trials? Do you have any reliable data about the diversionary and sentencing practice?**

Latvian Administrative Violations Code includes antisocial and punishable behaviour for which punishments can be applied but which is not linked with criminal liability.<sup>65</sup> An administrative violation is acknowledged as an unlawful, blameable (committed with intent or through negligence) action or inaction, which endangers State or public order, property, rights and freedoms of citizens or management procedures specified and regarding which administrative liability is specified in the Law. Administrative liability arises regarding violations indicated in Administrative Violations Code, if criminal liability has not been provided for regarding these violations.<sup>66</sup> The following administrative punishments can be applied to minors: a warning, a fine, the confiscation of the administrative violation object or the instrument of commitment. If the administrative commission<sup>67</sup> considers that administrative punishment should not be applied to the minor, the following compulsory measures of a correctional nature can be applied: to issue a warning; to impose a duty to apologise to the victims if they agree to meet with the guilty party; to place a child in the custody of parents or guardians, as well as other persons, authorities or organisations; to impose a duty to eliminate by his or her work the consequences of the harm caused; for a child who has reached the age of 15 and who has income – to impose a duty to reimburse the harm caused; to specify behaviour restrictions; to impose a duty to perform community services; or to place a child in an educational establishment for social correction.

65 Latvian Administrative Violations Code (1985), Sections 9, <http://nais.lv/textc.cfm?Key=0327021984120732769&Lang=03>.

66 Ibid, Section 9.

67 Institution which is responsible for applying of administrative sanctions.

If there has been reconciliation between the child and the victim as foreseen by law, Administrative commission can decide not to apply compulsory measure of a correctional nature. These reactions are applicable only to less serious cases, so minors do not come into contact with the juvenile justice system and other official legal authorities.

If a minor has committed an offence that is punishable in accordance with the Criminal law, one of the following punishments specifically foreseen for minors can be applied: deprivation of liberty, community service or a fine. A court, taking into account the nature of the committed criminal offence, may sentence the offender with a sentence that is suspended<sup>68</sup> – by not serving the sentence but by being supervised by State Probation Service. If a minor is sentenced with a sentence that is suspended, one must comply with all the additional sentences<sup>69</sup> (if there are any) and obligations<sup>70</sup> that the court has imposed. Obligations are imposed for each minor individually, considering the circumstances under which the criminal offence was committed as well as characteristics of the minor.

If a minor has committed a criminal violation or a less serious offence, public prosecutor (without referring the case to the court) can conditionally release the minor from criminal liability if there is a conviction acquired that the minor will not commit further criminal offences. In conditionally releasing from criminal liability, the public prosecutor shall determine for the minor a probationary period of not less than three and not exceeding eighteen months, impose the obligations foreseen by law<sup>71</sup> and refer the minor to supervision by State Probation Service. If the minor does not commit a new criminal offence during the probationary period, public prosecutor shall decide not to continue the criminal prosecution.

In accordance with the provisions of Criminal Law,<sup>72</sup> minors who have committed a crime and have reached the age of criminal liability can be released from the imposed sentence by court which then applies compulsory measures of a correctional nature.<sup>73</sup> These measures are applied by court or, in separate cases, by one judge.<sup>74</sup> If, instead of a criminal sentence, compulsory measure of a correctional nature is applied, minor can be imposed with a duty to perform a community services (a) or placed in an educational establishment for social correction (b). If the minor who has committed a criminal violation has reconciled with the victim and has fulfilled the obligations foreseen within the reconciliation agreement, it can be decided not to apply the compulsory measure. If

68 Criminal Law, Section 55, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

69 Ibid, Section 36, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

70 Ibid, Section 55, Part 6.

71 Ibid, Section 58.1.

72 Ibid, Section 59.

73 Law On Compulsory Measures of a Correctional Nature (2002), Section 4, Para 1, 3 and 3.1, <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

74 Ibid, Section 5.

the responsibility for the offence is foreseen in Criminal Law, reconciliation between the minor and the victim should be organized and carried out by State Probation Service. If the offence is committed while being under the influence of alcohol or other intoxicating substances, together with applying compulsory measures a duty to undergo a treatment from addictions can be imposed to the minor.

If a minor has committed a criminal offence, the following obligations can be imposed:

- A duty to perform community service<sup>75</sup> for a time period of 10 to 40 hours. Community service is the involvement of a minor in services necessary for the public. The minor performs these services free of charge in the area of his or her residence during their free time from regular employment or studies. The work must be explained to the minor and they must also be informed about the work safety regulations. If the minor reaches legal age while performing community service, work must be continued and reaching the legal age is not a reason for changing the compulsory measure.
- Placement in educational establishment for social correction for a time period of one to three years but no longer than till reaching 18 years of age. Establishment for social correction can decide on allowing prolonged stay in the establishment – till reaching the age of 19 years, if that is necessary for graduation from the educational program. Treatment from alcohol, narcotic, psychotropic, toxic or other intoxicating substances' addictions must be ensured for all children placed in the establishment. If the minor arbitrarily leaves the establishment and turns 18 within the duration of this absence, court can decide to substitute applied compulsory measure of a correctional nature with a criminal punishment that is proportionate to the committed offence.

A duty to perform community services and placement in an educational establishment for social correction does not lead to the minor having a criminal record, therefore these measures can be considered as alternative measures to traditional justice.

If a minor has committed a serious or an especially serious crime, the court cannot decide to apply diversion methods or alternative sanctions – in those cases court is obliged to apply criminal punishments foreseen for minors. However, application of punishment and provisions for execution of punishment are different for adults and minors. For a person who has committed a criminal offence before attaining eighteen years of age, the period of deprivation of liberty may not exceed: ten years - for especially serious crimes; five years - for serious crimes, which are associated with violence or the threat of violence, or have given rise to serious consequences; two years – for other serious crimes. For criminal violations and for less serious and serious crimes, the penalty of deprivation of liberty cannot be applied for minors.<sup>76</sup> Sentence for several criminal offences may not exceed 12 years and six months but sentence for addition of sentences – may not exceed

<sup>75</sup> Law on Compulsory Measures of a Correctional Nature (2002), Section 11, <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

<sup>76</sup> Criminal Law, Section 65, Part 2, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

15 years.<sup>77</sup> Minor may be conditionally released from punishment before serving the term of the sentence, if he or she has served not less than half of the imposed punishment. If the minor is conditionally released prior to completion of sentence, supervision of State probation service<sup>78</sup> is applied. A fine is applicable only to those minors who have their own income. A fine applied to a minor shall be not less than one and not exceeding fifty times the amount of the minimum monthly wage prescribed in the Republic of Latvia.<sup>79</sup> If a minor has committed a criminal violation, after serving the sentence he or she is without criminal records.

In Latvia, most of the punishments for minors are executed by State probation Service<sup>80</sup> (community service for children, supervision in cases of suspended sentence, supervision of conditionally released prior to completion of sentence, supervision if the proceeding are terminated with provisions) and Latvian Prison Administration<sup>81</sup> (safety measure within criminal proceedings – pre trial detention; deprivation of liberty). Two institutions that are subordinated to Latvian Prison Administration – Cēsu Correctional Institution for Minors (for boys only) and Ilģuciema Prison's Department for Minors (for girls), are responsible for execution of pre-trial detention and deprivation of liberty. Execution procedure of deprivation of liberty for minors is regulated by Law on The Sentence Execution Code of Latvia.<sup>82</sup> Sentence execution procedure for minors is simultaneously associated with maintenance of order and ensuring the process of resocialization, including access to education, acquiring different skills and professions. Execution of sentence is organized in way that excludes a possibility for minor inmate to get in contact with adult inmates. Therefore, if a person attains 18 years of age while being in prison, one can remain in the institution for minors until attaining 21 years of age if that is necessary for graduating from the education program. Only if a minor convicted person has had disciplinary problems or the sentence is too long for the former minor to be released before completion of sentence, former minor is transferred to adult prison's more favourable sentence execution regime. If that is the case, former minor serves the remaining part of the sentence in adults' prison or is released before completion of sentence and supervision of State Probation Service is applied.<sup>83</sup> The rules are the same for both minor girls and boys.

77 Ibid, Section 65, Part 3.

78 State Probation Service Law, Section 11, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/State\\_Probation\\_Service\\_Law.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/State_Probation_Service_Law.doc).

79 The minimum monthly wage within the normal working hours is 320 EUR. The minimum hourly rate is 1,933 Euros; Regulations on the minimum monthly wage and the minimum hourly wage rate, 08.27.2013, No.665, <http://likumi.lv/doc.php?id=259405>.

80 State Probation Service, <http://www.probacija.lv/page.php?id=174>.

81 Latvian Prison Administration, [http://www.ievp.gov.lv/index.php?option=com\\_content&view=article&id=86&Itemid=87&lang=en](http://www.ievp.gov.lv/index.php?option=com_content&view=article&id=86&Itemid=87&lang=en).

82 Law On The Sentence Execution Code of Latvia, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Sentence\\_Execution\\_Code.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Sentence_Execution_Code.doc).

83 Law On The Sentence Execution Code of Latvia, Section 50.7, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Sentence\\_Execution\\_Code.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Sentence_Execution_Code.doc).

Placement in educational establishment for social correction that is foreseen in Law on Compulsory Measures of a Correctional Nature is executed by only one Educational institution of Social Correction in Latvia. Institution's activities are regulated by specific legislative act.<sup>84</sup> It stipulates institution's internal regulation – admission of minors, educational process, involvement in programs, evaluation of minors' behaviour. It is a closed type institution, but it is not a sentence execution institution even though minors constantly reside there and can leave for home only with institution director's decision.

For quite a while, Latvia had a high prison population for every 100 000 inhabitants.<sup>85</sup> As a result of reforms that were carried out within the area of criminal justice during the last two years, the total prison population has been significantly reduced. Thus, if in 2010 the total prison population was 7050<sup>86</sup> inmates, in 19 February 2014 there were only 5108 inmates. Statistics are similar with minor inmates as well – if there were 199 minor inmates<sup>87</sup> in 2007 (out of 1239 convicted minors), at the end of 2013 there were 52 minor inmates (out of 563 convicted minors).

In accordance with the data of Court Statistics System,<sup>88</sup> it can be concluded that the total number of convicted minors has decreased for more than a half since 2007. In 2007, from the total number of convicted minors -1239-, there were 101 girls, 102 were raised in extra-familial care, 868 of all convicted minors were studying or working, 366 were within the age group of 14-15 years, but 877 within the age group of 16 – 17 years. 941 of all convicted minors had no criminal records and were tried for the first time. 745 minors were sentenced to suspended sentence and supervision of State probation service was applied while an actual deprivation of liberty<sup>89</sup> was applied in 246 cases. A fine as a criminal punishment was applied to 11 minors, but community service was imposed on 235 minors. Due to different reasons 11 minors were released from the punishment, but in 79 cases compulsory measures of a correctional nature were applied instead of criminal punishment.

In 2013, from the total number of convicted minors -563-, there were 39 girls. 37 minors were raised in extra-familial care, 419 of all convicted minors were studying or working, 141 were within the age group of 14-15 years, but 422 within the age group of 16 – 17 years. 414 of all convicted minors had no criminal records and were tried for the first time. 183 minors were sentenced to suspended sentence and supervision of State probation service

84 Internal Regulation of Educational institution of Social Correction, 02.01.2011, <http://likumi.lv/doc.php?id=225269>.

85 World Prison Brief, <http://www.prisonstudies.org/country/latvia>.

86 Prison population rate per 100,000 of national population was 304.

87 Sentenced to imprisonment and pre-trial detainees.

88 TIS data, [https://tis.ta.gov.lv/tisreal?Form=TIS\\_STAT\\_O&SessionId=B1BD5A72F537505D51C03DB80D84E339](https://tis.ta.gov.lv/tisreal?Form=TIS_STAT_O&SessionId=B1BD5A72F537505D51C03DB80D84E339).

89 Year 2007, Of the all minors whom have been applied imprisonment, up to 1 year it has been applied 63 persons, 1-3 years: 121 persons, from 3 to 5 years: 29 persons, from 5 to 10: 27 persons, but over 10 years imprisonment was applied for 6 minors.

was applied while an actual deprivation of liberty<sup>90</sup> was applied in 97 cases. A fine as a criminal punishment was applied to 2 minors, but community service was imposed on 288 minors. Due to different reasons 1 minor was released from the punishment, but in 53 cases compulsory measure of correctional nature was applied instead of criminal punishment.

<sup>90</sup> Year 2014, Of the all minors whom have been applied imprisonment, up to 1 year it has been applied 35 persons, 1-3 years: 44 persons, from 3 to 5 years: 10 persons, from 5 to 10: 8 persons, but over 10 years imprisonment was not applied to minors.

## B. Restorative approach within juvenile justice

**B.1. Where do you see a restorative approach within the juvenile justice system (this questionnaire follows a process based definition of restorative justice)?**

**B.2. What are the types of restorative justice measures provided for juveniles (e.g. victim-offender mediation, family conferencing, circles)? Please also refer to their legal basis.**

**B.3. Do these restorative measures play a role in juvenile justice (sentencing) practice?**

**B.4. What are the main actors involved in delivering restorative justice measures (public institutions, NGOs...). Who bears for the costs of restorative justice measures?**

When dealing with minors' administrative offences and the consequences of criminal offences, restorative justice approach is used in only one case – when State probation service<sup>91</sup> carries out settlement through an intermediary. The process and procedure of the settlement is stipulated by regulations issued by Latvian government (Cabinet of Ministers).<sup>92</sup> Regulations provide that State probation service of Latvia organizes and carries out settlement between the offender and victim before initiating criminal proceedings (a); at all stages of criminal proceedings (b); after court's adjudication is made (c); after injunction of a public prosecutor regarding a penalty has come into effect (d); after decision on termination of criminal proceedings, conditionally releasing from criminal liability has come into effect (e); if judge decides on applying compulsory measure of a correctional nature to a child (f). Settlement between the offender and the victim can be carried out only in cases when offender admits committing the crime as well as admits the facts of the case, and both parties agree to voluntarily participate in the settlement. When one of the parties is a minor, lawful representative or representative from Orphans' Court can participate in settlement (the same provisions are applied if

91 State Probation Service Law, Section 1, Para 1: "mediation — a process of negotiations in which the victim and probation client shall participate and in which the help of a mediator shall be used, in order to rectify the consequences of a criminal offence and to reach a settlement between a victim and a probation client".

92 Procedures by which National Probation Service organizes a settlement with the help of a mediator, 09.04.2007, No. 825.

one of the parties is an incapacitated person). There can also be other persons present in order to support the parties taking part in the settlement.

Settlement through an intermediary with participation of a minor can be carried out in cases when a minor has committed an offence and one of Criminal Law sanctions can be applied (a); when a minor has committed an administrative offence (b) or a decision on compulsory measures of correctional nature is being made (c). If a minor has committed a criminal violation or a less serious crime with an exception of homicide, he or she can be released from criminal liability, if a settlement with a victim or his/her representative is affected and the harm and damage is repaired and compensated.<sup>93</sup> If a minor has committed a criminal offence but the circumstances of the case lead to application of compulsory measures of correctional nature, the minor can be involved in the settlement procedure in accordance with the provisions of State Probation Service Law<sup>94</sup> and Procedures by which Probation Service organizes a settlement with the help of a mediator.

Implementation of these Restorative Justice approaches has a direct effect on the criminal proceedings. If a settlement is reached within a case where a minor is involved, minor can be released from criminal liability<sup>95</sup> and the fact of settlement must be taken into consideration when deciding in the punishment.<sup>96</sup> In addition to that, since 2013 a provision on the goal of punishment and criminal proceedings is included in Criminal Law – it indicates that the goal is not only to punish the offender but also to restore the justice.<sup>97</sup> At the moment, State Probation Service of Latvia is entitled to carry out Restorative Justice approaches – it is responsible for cooperation with other law enforcement agencies that are involved in the criminal proceedings. It also must be noted that involvement of State Probation Service is not obligatory – offender and victim can reach the settlement without participation of a mediator. Parties have the rights to meet, agree on the conditions of agreement and submit it to court. Parties also have a right to refer the case to a private mediator – this approach will have the same consequences as reaching the settlement independently, without participation of a mediator from State Probation Service. There is no specific procedure foreseen for involvement of private mediators and, unlike in case of State Probation Service mediators, their services are not financed by the state. It is also worth mentioning that outside the regulation of settlements carried out by State Probation Service mediators, use of restorative justice component cannot be ensured thus the conflict solving effect might as well be only formal.

93 Criminal Law, Section 58, Part 2 <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

94 State Probation Service Law, Section 13, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumis/State\\_Probation\\_Service\\_Law.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumis/State_Probation_Service_Law.doc).

95 Criminal Law, Section 58, Part 2 <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

96 Ibid, Section 47, Part 2, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

97 Ibid, Section 35, Part 2, Para 2, <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>.

## C. Foster care within the juvenile justice system

**C. 1. Does foster care play any role in your juvenile justice system?**

**C. 2. Under which conditions can foster care be imposed within the juvenile justice system (at pre- or post-sentencing level or in case of diversion)? Can foster care be imposed as an alternative to custody or pre-trial/police detention? If so please describe the regulations for foster care (length, rights of the children/the foster carers etc.) If there are possibilities in law, how are they used in practice?**

**C. 3. Does your system know any other alternatives to custody like alternative care in case of pre-trial detention (e.g. in closed juvenile welfare institutions instead of prisons) or in case of juveniles sentenced to youth prison or comparable forms of custody? If there are possibilities in law, how are they used in practice?**

In Latvia, the approach of placing a child in a foster family is not used as one of the Juvenile justice tools. The concept of foster families is regulated by Civil Law,<sup>98</sup> Protection of the Rights of the Child Law<sup>99</sup> and Law on Orphan's Courts.<sup>100</sup> In accordance with the provisions of Civil Law, appointment of a guardian for the child is chosen in cases when care of the child rights are removed from a parent due to factual impediments which prevent the parent from the possibility of caring for the child (a); the child is located in circumstances dangerous to health or life due to the fault of the parent (b); the parent misuses his or her rights or does not ensure the care and supervision of the child (c); the parent has given his or her consent for the adoption of the child (d) or violence against the child by the parent has been established or there is good cause for suspicion regarding violence against the child by the parent (e). Civil Law foresees that in removing custody rights from one parent the child should be placed under the separate custody of the other parent – in cases when it is not possible, Orphan's court is assigned with an appointment

98 Civil Law, Sections 190 to 239, <http://likumi.lv/doc.php?id=225418>.

99 Protection of the Rights of the Child Law, Sections 26 to 31, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection\\_of\\_the\\_Rights\\_of\\_the\\_Child.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection_of_the_Rights_of_the_Child.doc).

100 Law On Orphan's Courts, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law\\_On\\_Orphanxs\\_Courts.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law_On_Orphanxs_Courts.doc).

of a guardian for the child. Orphan's court can decide on: the suitability of a family or a person for the performance of the duties of a foster family (a); the granting of the status of a foster family (b); the placement of a child into a foster family or termination of the residence in such family (c). An Orphan's court shall take a decision regarding the establishment of guardianship and appointment of a guardian to a child if: the parents of the child have deceased (a); the child care or custody rights have been removed from the child's parents (b); the parents of the child are missing (c); the parents of the child are not able to provide sufficient care and supervision of the child due to illness (d); both parents of the child are of minor age (e); there are substantial disagreements in the relationship between the child and parents (f) or other cases have occurred.<sup>101</sup> Orphan's court can establish guardianship for a specific period of time and later decide on placing the child in foster family or in an institution of long-term social care and social rehabilitation.<sup>102</sup>

Protection of the Rights of the Child Law<sup>103</sup> stipulates that family is the natural environment for the development and growth of a child and every child has the inalienable right to grow up in a family. Law also indicates that the State and local governments shall support the family and provide assistance to it. If the relationship of the parents with their child does not ensure a favourable environment for the development of the child or if the child is chronically ill, the local government shall assist the family, providing consultations with a psychologist, social counsellor or other specialist, and shall appoint a support family or support person for the child, who shall assist in stabilising the relationship between parents and child. A support family or support person, on the basis of a three-party agreement, which is entered into between the support family or support person, local government social service and the family, for which support is necessary, shall provide support to the child or the family. The State and local governments shall provide support to the child and family as well as education, health maintenance, cultural, sports and recreational institutions and organisations, in order to promote the physical development and creative activities of the child; provide opportunities for leisure time for the child; and provide other services that will promote full development of the child and assist the family in the upbringing.

Regulation of Protection of the Rights of the Child Law<sup>104</sup> foresees that a child can be separated from the family if the child has committed a criminal offence – that refers to situation when the child is placed in detention as a security measure within criminal procedure. Detention as a security measure for minors can be used only in cases

101 Law On Orphan's Courts, Section 26, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law\\_On\\_Orphanxs\\_Courts.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law_On_Orphanxs_Courts.doc).

102 Ibid, Section 35, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law\\_On\\_Orphanxs\\_Courts.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law_On_Orphanxs_Courts.doc).

103 Protection of the Rights of the Child Law, Section 26, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection\\_of\\_the\\_Rights\\_of\\_the\\_Child.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection_of_the_Rights_of_the_Child.doc).

104 Protection of the Rights of the Child Law, Section 27, Part 1, Para 3, [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection\\_of\\_the\\_Rights\\_of\\_the\\_Child.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Protection_of_the_Rights_of_the_Child.doc).

specifically indicated by law<sup>105</sup> and based on the decision of investigatory judge, besides, this measure can be used if otherwise it would not be possible to ensure that the minor does not avoid or hinder criminal proceedings. As mentioned before, security measures that can be applied specifically to minors include placement under the supervision of parents or guardians or placement in a social correctional educational institution.<sup>106</sup>

Law<sup>107</sup> stipulates that compulsory measures of correctional nature can be applied to minors who: have committed a criminal offence and who a court has released from the imposed sentence (a),<sup>108</sup> have committed an offence provided for in the Criminal Law with regard to which a decision has been taken on termination of the criminal case and sending of the materials to a court (b),<sup>109</sup> have committed an offence provided for in the Criminal Law and an authorized official has established that the child has not reached the age of 14 years (c);<sup>110</sup> have committed a violation with regard to which a decision has been taken regarding sending the administrative violation case or materials to a local government administrative commission for the application of compulsory measures of a correctional nature (d).<sup>111</sup>

Application of compulsory measures of a correctional nature can be chosen in order to substitute the minor's placement in pre-trial detention institution for minors. If this is the case, the minor is not placed in an investigation department of Educational Institution for minors but is placed in a social correctional educational institution for children.<sup>112</sup> If the minor does not follow the internal regulations or arbitrarily leaves the institution, the judge can take the decision to place the minor in pre-trial detention.<sup>113</sup>

Placing the minor in a social correctional educational institution is basically deprivation of liberty which can be applied by a decision of the investigatory judge or court before the final adjunction has come into effect. It is applied in cases when the suspected or accused minor cannot be placed in detention but there are not enough grounds to believe that without deprivation of liberty, minor will fulfil one's procedural obligations and will not commit new offences. Placement in social correctional educational institution is carried out within the same procedure, in accordance with same regulations and for the same period of time as detention. The time minor has spent in social correctional educational institution before the trial is calculated as part of time spent in detention where one day

105 Criminal Procedure Law, Section 243, <http://likumi.lv/doc.php?id=107820>.

106 Ibid, Section 243, Part 2.

107 Law On Compulsory Measures of a Correctional Nature, Section 4, <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

108 Ibid, Section 4, Para1.

109 Ibid, Section 4, para 2.

110 Ibid, Section 4, Para 3.

111 Ibid, Section 4, Para 4.

112 Ibid, Section 6, Part 1, Para 6.

113 Criminal Procedure Law, Section 285, <http://likumi.lv/doc.php?id=107820>.

in an institution correspond to one day in detention.

Compulsory measures of a correctional nature<sup>114</sup> can also be applied as an alternative measures when a criminal offence is committed. Considering the circumstances of committing the offence as well as the characteristics of the minor as part of liability mitigating circumstances, court can decide to release the minor from imposed penalty and apply the compulsory measure of a correctional nature provided for by law. Imposed punishment will be executed in cases when the minor does not fulfil the obligations imposed on him or her by the court as part of the compulsory measures of a correctional nature.

Considering all the above mentioned, it can be concluded that in accordance with the legal framework of Republic of Latvia, there is only one alternative measure to deprivation of liberty for minors. When looking at the pre-trial detention as a punishment in accordance with the provisions of the Criminal Procedure Law and imprisonment as a criminal punishment in accordance with Criminal Law – placement in social correctional educational institution is the only alternative to these sanctions.

At the same time, it must be noted that during the last few years there are several reactions foreseen – ones that are not linked with isolating the minor from the society but having inclusive characteristics instead. Therefore, approaches that are excluding a child from society are not being developed as they exclude the child from one's natural environment. The opposite is being done in Latvia – work of professionals and legislature is focused on finding inclusive solutions for children who have committed an offence. Supervision within society, development of socially inclusive programs as well as assessment of risks and needs for each child with apparent or potential behavioural risks can be mentioned as few of the examples for new approaches.

<sup>114</sup> Law On Compulsory Measures of a Correctional Nature, Section 6, <http://nais.lv/textc.cfm?Key=0103012002103132797&Lang=03>.

A. Judins, "Restorative Justice vs. Juvenile Delinquency: the Baltic States in the European Dimension" (2009), Page 10; [http://www.providus.lv/upload\\_file/Projekti/Kriminalitesibas/RJ\\_research.pdf](http://www.providus.lv/upload_file/Projekti/Kriminalitesibas/RJ_research.pdf)

- Kronberga, J. Zermatten, Child-friendly Justice in Latvia: Focusing on Crime Prevention (2012), [http://www.providus.lv/upload\\_file/Projekti/Kriminalitesibas/Child-friendly%20Justice%20in%20Latvia.pdf](http://www.providus.lv/upload_file/Projekti/Kriminalitesibas/Child-friendly%20Justice%20in%20Latvia.pdf)

- Civil Law, <http://likumi.lv/doc.php?id=225418>

- Criminal Law (1998), <http://nais.lv/textc.cfm?Key=0103011998061732774&Lang=03>

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