



**J.O.D.A.  
Juvenile Offenders Detention  
Alternative in Europe**

*JUST/2013/JPEN/AG/4573*

*Snapshot*

*Estonia*



# Alternatives to detention for juvenile criminal offenders ESTONIA

**Juvenile, also minor, under the age of majority** – 18 years old

**Age of (full) criminal responsibility** –14

**Crime, also criminal offence** – an offence which is provided for only in the Penal Code and the principal punishment prescribed for which is a pecuniary punishment or imprisonment

**Principal Punishments Imposed for Criminal Offences**

- Pecuniary punishment – 30 to 500 daily rates (120-2000 EUR)

- Imprisonment – 30 days to 20 years, or life imprisonment.

(Up to 10 years when the crime was committed being under 18)

**Penal measures (remand custody and/or imprisonment of convicts) can be applied from** – 14

**Types of custody:**

- *police arrest* – up to 48 hours, without the sanction of the court (in police cells)
- *remand custody* – normally up to 6 months, for the time of investigation, sanctioned by the court. It can be prolonged in complicated criminal cases and, actually, there is no upper limit
- *imprisonment of convicts* – see above

## *When a crime is committed or respective information received...*

<i>Stages of criminal proceedings and standard procedures</i>	<i>Alternatives, possible for (juvenile) offenders</i>
Police, other <i>investigative body</i> or the prosecutor commences criminal proceedings <sup>1</sup>	When the subject/suspect/accused is at least 14 years old, the pre-trial proceedings must be performed fully by the investigator and forwarded to the prosecutor
Remand custody in prison The <i>prosecutor</i> will ask from the judge for it, if considered necessary	Alternatives: <ul style="list-style-type: none"> <li>- Prohibition on departure from residence (investigator will decide)</li> <li>- Bail<sup>2</sup> (judge will decide)</li> </ul>
Pre-trial proceedings are over and Statement of charges is made Now, IF the person accused is a juvenile...	<b>A.</b> If a minor who has committed a criminal offence in the age of 14 to 18 can be influenced without imposition of a punishment, the Prosecutor's Office can terminate the criminal proceeding by a ruling and refer the criminal file to the Juvenile Justice Committee (JJC) of the place of residence of the minor. <sup>3</sup>

<sup>1</sup> If the unlawful act was committed by a minor who was incapable of guilt (less than 14 years of age), the investigative body or Prosecutor's Office shall refer the materials of the criminal matter to the juvenile justice committee (JJC).

<sup>2</sup> Practically not applicable for juveniles as they do not have independent income in order to pay the bail money.

<sup>3</sup> **Sanctions by the Juvenile Justice Committee**

One or several of the following sanctions may be imposed on a minor:

- 1) warning;
- 2) sanctions concerning organisation of study;
- 3) referral to a psychologist, addiction specialist, social worker or other specialist for consultation;
- 4) conciliation;
- 5) an obligation to live with a parent, foster-parent, guardian or in a family with a caregiver or in a children's home;
- 6) community service up to 50 hours;
- 7) surety;
- 8) participation in youth or social programs or rehabilitation service or medical treatment programs;
- 9) sending to reformatory school for up to 2 years or 18 years of age.

<p><i>For juveniles as well as adults all these other alternatives apply, by the <b>Prosecutor</b>:</i></p>	<p><b><i>B. Termination of criminal proceedings in event of lack of public interest in proceedings and in case of negligible guilt</i></b>  The Prosecutor’s Office may request termination of the criminal proceedings by a court. Nevertheless, the court may impose the following obligations:  1) to pay the expenses relating to the criminal proceedings or compensate for the damage caused by the criminal offence;  2) to pay a fixed amount into the public revenues and to be used for specific purposes in the interest of the public;  3) to perform 10 to 240 hours of community service.</p>
	<p><b><i>C. Termination of criminal proceedings due to lack of proportionality of punishment</i></b>  The Prosecutor's Office may request termination of the criminal proceedings by a court if:  1) the punishment to be imposed for the criminal offence would be negligible compared to the punishment which has been or presumably will be imposed on the suspect or accused for the commission of another criminal offence;  2) imposition of a punishment for the criminal offence cannot be expected during a reasonable period of time and the punishment which has been or presumably will be imposed on the suspect or accused for the commission of another criminal offence is sufficient to achieve the objectives of the punishment and satisfy the public interest in the proceeding.</p>
	<p><b><i>D. Termination of criminal proceedings on the basis of conciliation</i></b>  If facts relating to a criminal offence in the second degree which is the object of criminal proceedings are obvious and there is no public interest in the continuation of the criminal proceedings and the suspect or the accused has reconciled with the victim, the Prosecutor’s Office may request termination of the criminal proceedings by a court with the consent of the suspect or accused and the victim.</p>

<p>When the Prosecutor takes the standard procedure and will send the criminal case to the <b>court</b>...  <i>These alternatives can be applied only for minors.</i></p>	<p><i>A. The court may release the person from punishment and impose the following sanctions:<sup>4</sup></i></p> <ol style="list-style-type: none"> <li>1) admonition;</li> <li>2) subjection to supervision of conduct;</li> <li>3) placement in a youth home; (actually, never applied)</li> <li>4) placement in a reformatory school.</li> </ol>
<p><i>All the following alternatives can be applied to minors as well as adults</i></p> <p>The <b>court</b> may decree for several substitutions of imprisonment</p>	<p><i>B. Types of Substitution of Imprisonment</i></p> <ul style="list-style-type: none"> <li>- Community service  Imprisonment for a term of up to two years or a conditional prison sentence may be substituted by community service. One day of detention or imprisonment corresponds to two hours of community service.</li> <li>- Electronic surveillance  Imprisonment of up to six months may be substituted by electronic surveillance. One day of imprisonment corresponds to one day of electronic surveillance.</li> <li>- Treatment  If an imprisonment of six months up to two years is imposed on a person for an act which he or she committed due to a treatable or controllable mental disorder, the court may substitute the imprisonment by treatment.</li> </ul>
<p><i>All the following alternatives can be applied to minors as well as adults</i></p> <p>When the <b>court</b> has already decreed for <b>imprisonment</b>, still there are several means of release from immediate imprisonment, imposed by the same decree of the court, usually</p>	<p><i>C. Release from Punishment</i></p> <ul style="list-style-type: none"> <li>- Probation  The court may order suspension of the sentence on probation.  In such case the imposed punishment shall not be enforced in full or in part if the convicted offender does not commit a new intentional criminal offence within the period of probation determined by the court.  Probation shall be ordered for a period of 3 to 5 years.</li> <li>- Probation with subjection of convicted offender to supervision of conduct  In addition to the pervious, the convicted offender must comply with the supervisory requirements and obligations imposed on him or her for the probation period.  Probation shall be imposed for a period of eighteen months to three years.</li> </ul>

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<sup>4</sup> Supervision of conduct – for up to one year, implemented by the Probation Service. The term may be extended by up to one year or, as an exception, until the convicted offender attains 18 years of age.  
Placement into reformatory is for up to two years, taking into consideration the end of the academic year. It may be extended by up to one year or, until 18 years of age.  
In all these cases, no criminal record is registered for the minor.

<p><b>When none of the above described is applied, the juvenile is imprisoned and starts serving his/her sentence</b></p>	<p><i>Juveniles are kept separately from adult prisoners, until they reach 18 years. Also, young adults (18-20 years) are usually kept separately from adult prisoners.</i></p>
<p>Early release from prison</p>	<p>Release on parole</p> <ul style="list-style-type: none"> <li>- If a person has been convicted of commission of a criminal offence in the second degree, or a criminal offence in the first degree through negligence, the court may release the convicted offender on parole if he or she has actually served: <ul style="list-style-type: none"> <li>— at one third but not less than six months of the term of the imposed punishment and the person agrees to the application of the electronic surveillance; or</li> <li>— at least half but not less than six months of the term of the imposed punishment.</li> </ul> </li> <li>- If a person has been convicted of intentional commission of a criminal offence in the first degree, the court may release the person on parole if the convicted person has actually served: <ul style="list-style-type: none"> <li>— at half but not less than six months of the term of the imposed punishment and the person agrees to the application of the electronic surveillance; or</li> <li>— at least two-thirds of the term of the imposed punishment.</li> </ul> </li> </ul> <p>A period of probation shall be determined to the extent of the unserved part of the term of the punishment but for not less than one year. During the period of probation, the person shall be subject to supervision of conduct.</p>