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ADVANCED LEGAL FRAMEWORK FOR JUSTICE FOR CHILDREN IN CONFLICT WITH THE LAW AND PENITENTIARY INSTITUTIONS FOR CHILDREN

- Abstract -

With the adoption of the new Law on Justice for Children (LJC) in 2024, the Macedonian legislation regarding children has been fully aligned with the relevant EU directives in terms of strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, in terms of procedural safeguards for children who are suspects or accused in criminal proceedings, the right of access to a lawyer in criminal proceedings and the right to have a third party informed upon deprivation of liberty as well as in terms of establishing minimum standards on the rights, support and protection of victims of crime. Within the framework of the basic principles, the LJC defined for the first time the principle of the best interests of the child, both in terms of its meaning in material terms and in terms of its priority in the interpretation of the provisions of the LJC. When taking about the right of the child there is an obligation the child to be informed about his/her rights, but also the obligation to be given the rights in writing (bill of rights), expanded application of the principle of expediency, except for serious crimes committed, broader scope of the term "child victim" by including indirect victims as well as a child victim when it comes to a child who promotes, accepts, supports, justifies, advocates and participates in acts of radicalization, violent extremism and terrorism, severe forms of violence, mass migration movements, xenophobia and other severe forms of extremism. New 2024 LJC became a procedural law because for the first time, it prescribed the court's actions in the case of a child in conflict with the law, instead of the previous solution that referred to the Code of Criminal Procedure without taking into account the specifics of the treatment of children in conflict with the law. Regarding institutions for execution of educational measures for children and child imprisonment, there are accurate solutions in the Law on execution of sanctions, but there are also amendments which tend to advance and improve the entire process of execution of educational measures. Improvement is related to efforts for providing education, health care, programs for preventing violence, preventing re-offending and restorative approaches as well as raising capacities of staff within institutions for children

Key words: *justice for children, child best interests, criminal procedure, child victims, penitentiary institutions for children*

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I. INTRODUCTION

The newly adopted Law on justice for children (LJC) in 2024,¹ contributed toward advancing the overall legal framework of justice for children with particular focus on procedural guarantees for children who are suspects or accused in criminal proceedings,² as well as standards on the rights, support and protection of child victims.³ The protection of children's rights within the justice system represents one of the most pressing challenges for contemporary legal frameworks. As societies evolve, the need for specialized mechanisms that safeguard the dignity, security, and best interests of children becomes increasingly evident. International conventions, particularly the United Nations Convention on the Rights of the Child, have set global standards that require states to adapt their legislation and judicial practices to ensure child-friendly justice. In this context, the development of an advanced legal framework for justice for children is not merely a technical reform, but a fundamental commitment to human rights, social equity, and democratic governance.

This paper explores the principles, institutions, and procedures that underpin such a framework, with a focus on harmonization with international standards, the role of specialized bodies, and the balance between protection and accountability. By examining both normative provisions and practical implementation, the text aims to highlight the ways in which justice systems can be transformed to meet the unique needs of children, while simultaneously strengthening the rule of law and public trust in legal institutions.

Penitentiary institutions for children in North Macedonia occupy a unique place within the justice system, balancing the need for accountability with the imperative of rehabilitation and reintegration. Unlike adult prisons, these facilities, such as the Tetovo Juvenile Educational Correctional Facility has been structured to provide a supportive environment where education, vocational training, healthcare, and psychological assistance are prioritized.

II. PROCEDURAL SAFEGUARDS FOR CHILDREN IN CONFLICT WITH THE LAW

1.1. European perspectives

The importance of the procedural safeguards for persons during criminal procedure was emphasized with the 2009 EU Council Roadmap.⁴ It was not only for children, but for every person that is accused or suspect during the criminal procedure, so there were several measures linked with the particular procedural guarantee. Namely, the Roadmap calls for the adoption of measures regarding the right to translation and interpretation (measure A), the right to information on rights

¹ Law on Justice for Children, Official Gazette of the Republic of North Macedonia, No. 66/2024, 55/2025.

² Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, OJ L 132, 21.5.2016, pp. 1–20, available at: <https://eur-lex.europa.eu/eli/dir/2016/800/oj>.

³ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, pp. 57–73, available at: <https://eur-lex.europa.eu/eli/dir/2012/29/oj>.

⁴ Resolution of the Council of 30 November 2009 on a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings (Text with EEA relevance), OJ C 295, 4.12.2009, pp. 1–3, available at: <https://eur-lex.europa.eu/eli/res/2009/295/oj>.

and information about the charges (measure B), the right to legal advice and legal aid (measure C), the right to communicate with relatives, employers and consular authorities (measure D), and special safeguards for suspected or accused persons who are vulnerable (measure E). Due to the measures identified within the Roadmap, since 2010 several directives were adopted, each of them regulating particular procedural safeguard.⁵

It is worth mentioning the role of the Council of Europe's 2010 Guidelines on child-friendly justice,⁶ that refers to justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level, giving due consideration to the child's level of maturity and understanding and the circumstances of the case. The justice shall be considered as child-friendly only if it is accessible, age appropriate, speed, diligent, adapted to and focused on the needs and rights of the child. The Guidelines recall to the relevant conventions,⁷ and recommendations regarding children rights and dealing with the child delinquency,⁸ as well. The guidelines deal with the issue of views, rights and needs of the child in judicial proceedings and in alternatives to such proceedings and shall apply to all ways in which children are likely to be brought into contact with competent bodies and services so that their right to information, to representation, to participation and to protection shall be fully respected.

The Guidelines also point out the importance of the Resolution No. 2 on child-friendly justice,⁹ which urged member states to align their laws and practices with child rights standards, focusing on children's access to justice, ensuring their views are heard, and implementing child-friendly procedures in all legal contexts. Resolution's key aspects included several crucial issues: better information for children - to improve how children access information about their rights and proceedings, making systems less intimidating; considering the significance of their best interests – best interests of the child have to be a primary consideration in all matters, incorporating their views, dignity, and well-being; using specialized staff – there is a need for specialized approach that can be provide only by specially trained professionals as well as efficient, child-sensitive, procedures to reduce harm; developing alternatives to detention – there is a necessity for

⁵ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1); Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1); Directive 2013/48/EU of the European Parliament and the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and European arrest warrant proceedings and on the right to have a third party informed upon deprivation of liberty, and to communicate with third persons and with consular authorities (OJ L 294, 6.11.2013, p. 1); Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1); Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

⁶ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, 17.11.2010 and explanatory memorandum, available at: <https://rm.coe.int/16804b2cf3>.

⁷ The European Convention on the Exercise of Children's Rights (1996, ETS No. 160); Council of Europe Convention on Contact concerning Children (2003, ETS No. 192); Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007, CETS No. 201).

⁸ Recommendation Rec(2003)5 on measures of detention of asylum seekers, Recommendation Rec(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice, Recommendation Rec(2005)5 on the rights of children living in residential institutions, Recommendation Rec(2006)2 on the European Prison Rules, Recommendation CM/Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures and Recommendation CM/Rec(2009)10 on integrated national strategies for the protection of children from violence

⁹ Resolution No. 2 on child-friendly justice, adopted at the 28th Conference of European Ministers of Justice, Lanzarote, October 2007, available at: <https://rm.coe.int/1680694596>.

developing non-custodial options for child offenders and if detention is necessary children must be housed separately from adults and have appropriate regimes. It is important that the Resolution suggests to set minimum age of criminal responsibility at the age not younger than 14. The impact of the Resolution is very significant since it emphasized a comprehensive approach, applicable to all legal areas (criminal, civil, administrative) where children interact with the system, such as divorce, violence, or migration cases.

EU Strategy on the Rights of the Child (2021-2025) has been comprehensive EU policy framework adopted to ensure the protection of rights of all children, and secure access to basic services for vulnerable children. Since its adoption, bolt progress has been made to protect and promote the rights of the child in the EU and globally.¹⁰

It is worth mentioning the contribution of the 2024 European Commission Recommendation on developing and strengthening integrated child protection systems in the best interests of the child.¹¹

However, the utmost importance for rights of child in the procedure has a Directive (EU) 2016/800, that establishes minimum procedural safeguards for children in criminal proceedings.

There was an obligation for EU Member States to adopt and publish the laws, regulations, and administrative provisions necessary to comply with the Directive until June 11, 2019. The European Judicial Network (EJN) provides an overview of the national implementation status for the Directive for each Member State, but even six years after the deadline there are EU countries that does not adopt legislation to comply with the Directive.¹²

When analyzing the objectives of the Directive, the Commission pursued two goals: i. ensuring a more homogeneous protection of children's rights within the EU in view of the improvement of mutual recognition and judicial cooperation; and ii. promoting greater protection of the rights of children in criminal proceedings, especially during the phases where children are more exposed to risks of harm, undue suffering or harmful consequences of the outcome of their case.¹³

The scope of the Directive is over every person below the age of 18, but as well as for so called "young adults" - when, at the time a person becomes a suspect or accused person in criminal proceedings, that person has reached the age of 18, but the criminal offence was committed when the person was a child, the procedural safeguards shall be applied until that person reaches the age of 21, at least as regards criminal offences that are committed by the same suspect or accused person and that are jointly investigated and prosecuted as they are inextricably linked to criminal proceedings which were initiated against that person before the age of 18. Regarding the age, where a person's age remains in doubt, that person should be presumed to be a child. The main procedural guarantees within the Directive are very broad and comprehensive, as follows: Right

¹⁰ EU Strategy on the Rights of the Child (2021–2024), European Commission, available at: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eu-strategy-rights-child-and-european-child-guarantee_en.

¹¹ Commission Recommendation of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C(2024) 2680 final, Strasbourg, 23.4.2024, available at: https://commission.europa.eu/document/download/36591cfb-1b0a-4130-985e-332fd87d40c1_en?filename=C_2024_2680_1_EN_ACT_part1_v8.pdf.

¹² Belgium, Denmark, Greece, Italy, Ireland, Lithuania, Luxembourg and Romania. European Judicial Network, implementation status by category, available at: https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImpByCat/EN/149.

¹³ Rap, S., et al. White Paper on the EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, International Juvenile Justice Observatory, available at: <https://scholarlypublications.universiteitleiden.nl/access/item%3A2904837/view>.

to information, Right of the child to have the holder of parental responsibility informed, Assistance by a lawyer, Right to an individual assessment, Right to a medical examination, Audiovisual recording of questioning, Limitation of deprivation of liberty, Alternative measures, Specific treatment in the case of deprivation of liberty, Timely and diligent treatment of cases, Right to protection of privacy, Right of the child to be accompanied by the holder of parental responsibility during the proceedings, Right of children to appear in person at, and participate in, their trial, European arrest warrant proceedings and Right to legal aid.

1.2. Best interests of the child and procedural guarantees by the LJC

The LJC can be considered as a law that is completely in line with the procedural guarantees from the Directive (EU) 2016/800 and is upgrading the children's rights that were part of the previous Law on justice for children.¹⁴ Best interest of the child has been stipulated for the first time as a basic principle for the justice for children. The principle of the "best interests of the child" is a cornerstone of international and European child rights law, explicitly recognized in the UN Convention on the Rights of the Child.¹⁵ The best interests principle should be applied as a right, principle, and rule of procedure and implemented by the courts, by the legislators as well as by the policymakers,¹⁶ and weight should be given to the child's best interests as a primary consideration as well as to the need to promote the child's reintegration into society.¹⁷ The child's best interests are always a primary consideration, so in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.¹⁸ There were also concerns that the lack of definitions of "best interests of the child" left room for different interpretations of the whole concept of child's best interest.¹⁹

Taking into account the significance, scope and the meaning of this crucial principle for juvenile criminal justice, the LJC contains comprehensive definition and defines the approach for identifying and implementation of this principle when analyzing and interpreting the legislative provisions. The best interest of the child shall mean action and decision-making in which the interests of the child for his or her protection, upbringing, re-education and proper growth and development and the effects that such action or decision-making has on the child are of primary importance. The best interest of the child shall always prevail if it comes into conflict with other interests, material and procedural provisions. All specialized bodies by the LJC are obliged to pay

¹⁴ Law on Justice for Children, Official Gazette of the Republic of Macedonia, No. 148/2013, 152/2019 and 275/2019; Kambovski, V., et al. Commentary on the Law on Justice for Children with Practicum, Skopje, 2018.

¹⁵ Convention on the Rights of the Child, 1989, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹⁶ Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3, paragraph 1), May 2013, available at: https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf.

¹⁷ Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child>.

¹⁸ Charter of Fundamental Rights of the European Union, OJ C 364, 18.12.2000, pp. 1–22, available at: https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

If you use the current treaty-linked version, use instead: Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, pp. 391–407, available at: https://eur-lex.europa.eu/eli/treaty/char_2012/oj/eng.

¹⁹ Gavrilovski, Z. Gap Analysis of the Alignment of the Legislation and Practice on Victims' Rights in the Republic of North Macedonia with the Norms and Standards of the European Union Established in Directive 2012/29/EU, Macedonian Young Lawyers Association, 2021, available at: https://myla.org.mk/wp-content/uploads/2021/09/GAP-analiza_A4_WEB-compressed.pdf.

special attention and reasonable adjustment of the environment in the event of action against a child, in accordance with the provisions of the LJC, in order to ensure that the child participates in the procedure without unnecessary burdens, respecting the right to privacy and the protection of personal data.

Among basic principles it is worth to mention the principle for protection of child of any act of torture or other cruel, inhuman or degrading treatment or punishment, as well as detaining the child and determining the measure of detention shall be applied only as a last resort in the procedure and only under the conditions and for the duration determined by the law.

The LJC accepts different categories of children – in risk, in conflict with the law, child-victims, young adults, as well. Taking into account that radicalization leading to violent extremism and terrorism is a phenomenon of concern in EU,²⁰ the LJC has stipulated a particular category of a child at risk, a child in conflict with the law or a child victim who promotes, accepts, supports, justifies, advocates for and participates in acts of radicalization, violent extremism and terrorism, severe forms of violence, mass migration movements, xenophobia and other severe forms of extremism.

This is in line with Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, as well.²¹

Directive 2016/800 contains definition regarding the “holder of parental responsibility” as any person having parental responsibility over a child, so considering this broad definition, the LJC stipulates that a family is a community of parents and children but also of other relatives, if they live in a joint household with the child.

The LJC has become procedural law, since it stipulates the entire procedure toward children in conflict with the law, instead of referring to the Code of criminal procedure, as it was previously. Namely, the LJC stipulates the procedure from the very beginning, when public prosecutor initiates preparatory procedure until the legal remedies. There are several main principles regarding the court procedure toward the child,²² and the minimum rights of the child in case of suspicion that a child has committed an act that is provided for by law as a criminal act or misdemeanor. Among those rights (Article 97, LJC) are the right to a defense attorney, exclusion of the public during the proceedings against the child, the right not to provide notification, information, or to defend himself/herself by remaining silent, the right of the parents/guardian or another adult to be given or delivered the same instruction on his/her rights as that given or delivered to the child, the right to be accompanied by the parents/guardian or another adult during the proceedings, if the child is deprived of liberty, he must be immediately informed, in a language that he understands, of the reasons for the deprivation of liberty and of any suspicion against him/her of a criminal act committed, that during the proceedings the necessary data will be obtained regarding psychophysical development and data on personal and family circumstances (individual assessment), the right to a medical examination, including medical assistance in the event of deprivation of liberty, that measures may be imposed to ensure his presence and, as a last

²⁰ Communication from the Commission to the European Parliament, The European Council, The Council, The European Economic and Social Committee and the Committee of the Regions, A Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond, COM/2020/795 final.

²¹ This is also in line with Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, 2021, available at: <https://www.theijj.org/wp-content/uploads/2021/09/English-Neucha-tel-Memorandum-on-Juvenile-Justice.pdf>

²² Lažetić, G., et al. Child Delinquency and Justice for Children, 2025, available at: https://www.researchgate.net/publication/391087014_Detsko-prestapnishtvo_i_pravda_za_deca_2025_Child_delinquency_and_juvenile_justice_University_Book.

resort, detention may be imposed, the right not to be tried in absentia and the right to submit legal remedies.

The right to legal assistance is one of the most important procedural elements of the right to a fair trial for both adults and children, and can be considered as a fundamental human right.²³ The guarantee from this Directive shall be understood in the framework of EU Directive 2013/48 ('Lawyer Directive').²⁴ There is a mandatory legal assistance/defense, i.e. the right to a lawyer from the very first action, in line with the Directive provisions that the child must always have access to a lawyer, with legal aid if needed. In accordance with the LJC, the child should also be assisted by a lawyer when is brought before a competent court or judge in order to decide on detention at any stage of the proceedings within the scope of the Directive, as well as during detention. The Directive provide safeguard regarding detention of the child as a last resort, separately from adult and with regular review by the court, and this safeguard is among basic principles of the LJC, as well. Moreover, deprivation of liberty should not be imposed as a criminal sentence unless the child has been assisted by a lawyer in such a way as to allow the child to exercise his or her rights of the defense effectively and, in any event, during the trial hearings before a court.

In accordance with the principle of officiality only the public prosecutor can appear as an authorized prosecutor in a procedure toward a child in conflict with the law, and there is no opportunity for the damaged party to initiate the procedure.

Directive 2016/800 (Article 13) indicate the need for timely and diligent treatment of cases, so there should be appropriate measures in the domestic legislation to ensure that criminal proceedings involving children are treated as a matter of urgency and with due diligence. The principle of urgency in the LJC (Article 92) has significant impact specially as a matter of principle of best interest of child. It requires effective and prompt action in order to avoid any delays, so the court procedure against a child, from the date of receipt of the case in court until the first instance decision, cannot last longer than 12 months. There are exceptions where the procedure cannot last longer than 18 months - for criminal offenses punishable with a prison sentence of at least four years, nor longer than 9 months – for a misdemeanor.

Regarding the right to information of the child, according to the Directive when the child become suspects or accused person must be informed quickly in child-friendly language. The Commission proposed that children should be informed "promptly" of their rights, but the Council maintained that providing children with all the information on their rights at the beginning of the proceedings would be disproportionate and suggested that information should be provided to children "where and when these rights apply". The text as finally agreed makes a distinction between the different stages of the proceedings and sets out which information children should receive during each stage.²⁵ This approach is in line with the assessment of the European Court on Human Rights regarding rights of the child in criminal procedure.²⁶ The LJC in this sense stipulates

²³ Salduz v. Turkey, Application no. 36391/02. Judgment 27 November 2008.

²⁴ Directive 2013/48/EU of the European Parliament and the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and European arrest warrant proceedings and on the right to have a third party informed upon deprivation of liberty, and to communicate with third persons and with consular authorities (OJ L 294, 6.11.2013, p. 1).

²⁵ Cras, S. "The Directive on Procedural Safeguards for Children who Are Suspects or Accused Persons in Criminal Proceedings: Genesis and Descriptive Comments," eucrim, Issue 2/2016, pp. 109–119, available at: <https://eucrim.eu/articles/directive-procedural-safeguards-children-criminal-proceedings/>.

²⁶ Panovits v. Cyprus, Application No. 4268/04, Final Judgment 11.03.2009, available at: [https://hudoc.echr.coe.int/eng/22itemid%22:\[%22001-90244%22\]](https://hudoc.echr.coe.int/eng/22itemid%22:[%22001-90244%22]).

that the child has the right to be informed by all institutions that come into contact with the child about his rights in the procedure and about the procedure itself, as well. There is a precise provision that the child has the right to receive information and instruction in a manner adapted to his age and maturity, in a manner that is culturally and gender-sensitive, aspects that shall be considered as a part of Directive's "child-friendly language". Right to information encompasses the right for participation, so in accordance with the LJC, in every judicial and extrajudicial procedure regarding the child, it has the right to actively participate in decision-making in his or her life and to express his or her opinion.

The child has also the right to receive written instructions on the rights and to be orally informed about the course of the proceedings and the right to file a complaint and petition for the protection of rights before the Ombudsman and before other bodies and institutions that have the authority to care for the rights of the child. This legislative provision is in line with Directive 2016/800,²⁷ as well as Directive 2012/13 regarding the right to information and providing the person and the child with written Letter of Rights. In accordance with Directive 2012/13,²⁸ where suspects or accused persons are arrested or detained, information about applicable procedural rights should be given by means of a written Letter of Rights drafted in an easily comprehensible manner so as to assist those persons in understanding their rights.

Directive's guarantee (Article 15) that the child has the right to be accompanied by the holder of parental responsibility or by another appropriate adult who is nominated by the child and accepted as such by the competent authority during court hearings. The title of Art. 15 initially was proposed as "Right of access to court hearings of the holder of parental responsibility", but it was replaced since the Directive is meant to give rights to children, not to their parents (or similar persons).²⁹ has been also stipulated in the LJC (Article 98). Namely, the child has the right to be accompanied by parents or guardian during the examination before the authority conducting the procedure, and when it is in the best interest of the child and if the presence of the child's parents or guardian does not jeopardize the criminal proceedings, the child has the right to be accompanied by the parents or guardian during other actions during the procedure in which the child is present. If the accompaniment by the parents or guardian is contrary to the best interest of the child, if it may significantly jeopardize the proceedings or if it has not been possible to contact one of the parents or guardians or if their identity is unknown, the child has the right to be accompanied by another adult person, upon proposal by the child after that person has been accepted by the authority conducting the procedure or taking an action. There is a possibility for the child to be accompanied by a representative from the Center for social work. However, this possibility is not absolute, so if the child states that he does not wish to be accompanied by the parents or guardian or another adult person, after the authority notify the child about the consequences of waiving this right, the competent authority may continue to act or take the action if it assesses that this is in the best interest of the child. The child's waiver of the right to be accompanied must be noted in the minutes, and if possible, there might be also a recording of the child's waiver statement.

There is a right to an individual assessment by the Directive (Article 7), which means that specific needs of children concerning protection, education, training and social integration shall be taken into account as well as the child's personality and maturity, economic, social and family background, and any specific vulnerabilities that the child may have. The biggest problem

²⁷ Dr. Stephanie Rap et al., op.cit.

²⁸ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, OJ L 142, 1.6.2012, pp. 1–10, available at: <https://eur-lex.europa.eu/eli/dir/2012/13/oj>.

²⁹ Steven Cras, op.cit.

concerned the moment at which the individual assessment should take place.³⁰ The individual assessment should take place at the earliest appropriate stage of the proceedings and in due time so that the information deriving therefrom can be taken into account by the prosecutor, judge, or another competent authority before presentation of the indictment for the purpose of the trial. It is possible, however, to present an indictment in the absence of an individual assessment, provided that this is in the child's best interest.³¹ Regarding the individual assessment in accordance with the LJC, there are several provisions that are referring to the individual assessment. In the preparatory procedure against a child, in addition to the facts relating to the acts that are provided for by law as criminal offenses, circumstances relating to the age of the child, his psychophysical condition, the environment and circumstances under which the child lives shall be examined and provided either by parents or from the Center for social work (Article 119, LJC). When undertaking actions involving a child, and especially during his examination, the authorities participating in the procedure are obliged to act carefully, taking into account the psychophysical condition, sensitivity and personal characteristics of the child, so that the conduct of the procedure does not have a detrimental effect on the child's development (Article 99). In this sense, before deciding whether to file a request for initiating preparatory proceedings, the public prosecutor may question the child in the presence of the parents or the guardian and the defense attorney, except when the psychophysical condition of the child does not allow this (Article 113). For the very first time, the LJC stipulates the possibility, after presenting all evidence, before the end of the evidentiary procedure, the president of the council may request the representative of the Center for social work to express his opinion regarding the psychophysical status of the child, the degree of criminal responsibility and the proposed sanction, which he considers to be the most appropriate for achieving the goals of the punishment, and the children's counselor regarding his expert opinion on the sanction (Article 143).

When it comes to the guarantee from the Directive regarding right to a medical examination (Article 8), it shall be mentioned that the LJC accepts the approach of only mention the possibility for medical examination of the child in conflict with the law while in detention (Article 129), and there is much detailed guarantee regarding medical examination of child-victims. So, there are different regimes regarding the same procedural guarantee depending of the status of the child. It seems that for child in conflict with the law, the LJC has been focused on the part of the Article 8 of the Directive according to which the medical examination shall be carried out only where the circumstances so require. A medical examination should be carried out as a last resort and in strict compliance with the child's rights, physical integrity and human dignity.³² Namely, the European Parliament requested substantially enlarging the scope of the medical examination, but the Council considered it too broad and not in line with the purpose of this article.³³

The LJC broadly reflects the requirements on procedural safeguards for children who are suspects or accused in criminal proceedings.³⁴ However, in implementing all those guarantees

³⁰ Steven Cras, *op.cit.*

³¹ Recital (39) of Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

³² Recital (39) of Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

³³ Steven Cras, *op.cit.*

³⁴ North Macedonia 2025 Report, SWD(2025) 753 final, Brussels, 4.11.2025, available at: https://enlargement.ec.europa.eu/document/download/267b368e-6b55-4a42-bb72-6395593de4da_en?filename=north-macedonia-report-2025.pdf

there are potential risks and challenges regarding implementation capacity by ensuring trained child psychologists, social workers, and available legal aid lawyers.

III. PROTECTION OF THE CHILD-VICTIMS

3.1. European perspectives

Protection of victims, and specially of child-victims, has been in the EU focus for several decades. Article 3 of the Treaty on European Union states that the EU has an obligation to promote the protection of children's rights,³⁵ so after entering into force of the Lisbon Treaty, child protection has been recognized as a specific EU goal. While Member States are primarily responsible for child protection systems, the EU also plays an important role, since it is required to promote initiatives to protect children's rights.³⁶ The Charter of Fundamental Rights of the European Union recognizes in its Article 24 that 'children shall have the right to such protection and care as is necessary for their well-being'.³⁷

EU Strategy on Victims' Rights (2020-2025) has been focused on specific rights for all victims, with special attention to child victims, ensuring support and protection.³⁸ Main goals of the Strategy might be divided in to groups: i. Empowering victims of crime so that victims have to be informed of their rights and there need to be available services for victims, but also the protection of secondary victimization is very important so there is a need for strengthening measures to protect victims from further harm, intimidation, or retaliation; and ii. Working together for victims' rights that can be fulfilled by coordinated efforts to implement victims' rights consistently, improving knowledge among police, judiciary, and service providers to better assist victims, equal treatment and support of victims and proper legal framework for their rights and protection.

There are also so-called sectoral directives regarding protection of particularly vulnerable victims, such as victims of sexual abuse and sexual exploitation of children and child pornography,³⁹ as well as preventing and combating trafficking in human beings.

After realizing that there is rising scale and hidden victims as well as new forms of trafficking and exploitation, there was a need for amending Directive for preventing trafficking in human beings from 2011.⁴⁰ Since 2024 there is a new Directive 2024/1712 on preventing and

³⁵ Consolidated version of the Treaty on European Union, OJ C 326, 26.10.2012, pp. 13–390, available at: https://eur-lex.europa.eu/eli/treaty/teu_2012/oj/eng.

³⁶ M.Prpic, M.Eichhorn, Violence against children in the European Union - Current situation, European Parliamentary Research Service, October 2024, available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2024/762472/EPRS_IDA\(2024\)762472_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2024/762472/EPRS_IDA(2024)762472_EN.pdf).

³⁷ Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, pp. 391–407, available at: https://eur-lex.europa.eu/eli/treaty/char_2012/oj/eng.

³⁸ EU Strategy on Victims' Rights (2020–2025), COM(2020) 258 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0258>.

³⁹ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17.12.2011, pp. 1–14, available at: <https://eur-lex.europa.eu/eli/dir/2011/93/oj>.

⁴⁰ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011, pp. 1–11, available at: <https://eur-lex.europa.eu/eli/dir/2011/36/oj>.

combating trafficking in human beings and protecting its victims,⁴¹ which focus is toward expanded term of "trafficking" that encompasses forced marriage, illegal adoption and surrogacy, that shall be punishable with maximum of at least five years of imprisonment and maximum of at least ten years of imprisonment for aggravated cases; criminal responsibility for the 'clients' of the victim that use the service provided by a trafficking victim knowing that the person is a victim of trafficking; criminal responsibility of the legal entities with more deterrent sanctions, not only a fine; as well as expanded possibilities of non-prosecution of and non-application of penalties to victims of trafficking.⁴²

General Victims' Rights Directive has been adopted in 2012, and as the main horizontal instrument for all victims of all crimes rights it is establishing minimum standards for victims, requiring a child-sensitive approach and tailored support.⁴³ The purpose of the Directive has been to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings while victims are recognized and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner.

The rights are divided in several chapters. The focus of the second chapter are rights of information and support (right to understand and to be understood, right to receive information from the first contact with a competent authority, right of victims when making a complaint, right to receive information about their case, right to interpretation and translation, right to access victim support services and support from victim support services).

The third chapter is linked with the rights of the victim while participating in criminal proceedings, so there is a right to be heard, rights in the event of a decision not to prosecute, right to safeguards in the context of restorative justice services, right to legal aid, right to reimbursement of expenses, right to the return of property, right to decision on compensation from the offender in the course of criminal proceedings and rights of victims resident in another Member State).

The Directive pays special attention to the rights for protection of victims and recognition of victims with specific protection needs, so there is a right to protection from secondary and repeat victimization, intimidation and retaliation, right to avoid contact between victim and offender, right to protection of victims during criminal investigations, right to protection of privacy, individual assessment of victims to identify specific protection needs, right to protection of victims with specific protection needs during criminal proceedings, right to protection of child victims during criminal proceedings).

After a decade from adoption of the Directive, in June 2022, the European Commission published its evaluation of the Victim's Rights Directive which aimed at assessing to what extent the directive has achieved its objectives in terms of its implementation and practical application in EU countries.⁴⁴ Despite general positive assessment of the directive's role in enhancing the situation of victims across the EU, the evaluation identified a number of shortcomings in relation to victims' access to information, victims' access to support services and to protection in accordance with each victim's individual needs, and it also pointed to the need to enable victims

⁴¹ Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1712>.

⁴² A.Pingen, T.Wahl, New Directive to Strengthen Anti-Human Trafficking, EUCRIM available at: <https://eucrim.eu/news/new-directive-to-strengthen-anti-human-trafficking/>.

⁴³ Directive 2012/29/EU (Victims' Rights Directive), <https://eur-lex.europa.eu/eli/dir/2012/29/oj/eng>.

⁴⁴ Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Commission Staff Working Document, SWD(2022) 180 final, Brussels, 28.6.2022.

to play a more active role in criminal proceedings and to provide them with easier access to compensation.⁴⁵

On 12 July 2023, the Commission published the revision of the Victims' Rights Directive that was accompanied by the Impact Assessment Report.⁴⁶ By the revision of the Victims' Rights Directive there are several new articles that shall be inserted: victims' helpline that shall be easily accessible, user friendly, free of charge and confidential and which shall provide victims with the information regarding their rights, offer emotional support and refer victims to specialized support services helplines if needed (Article 3a); reporting of crime by the victims to the competent authorities through easily accessible, user friendly information and communication technologies as well as to encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities (Article 5a); targeted and integrated support services for children (Article 9a) that will provide age-appropriate support and protection necessary to comprehensively address the multitude of needs of child victims; right to assistance at the court premises by providing information and emotional support to victims (Article 10a); as well as ensuring that victims are informed without delay of decisions taken in court proceedings that affect them directly and have the right to a review of such decisions (Article 10b); establishing and implementing of specific protocols on the organisation of services and actions by the competent authorities and other persons coming in contact with victims, that shall be drawn up in coordination and cooperation between law enforcement, prosecution authorities, judges, detention authorities, restorative justice services and victim support services (Article 26a); Use of electronic means of communication (Article 26b); rights of victims with disabilities (Article 26c); victims shall have an effective remedy (Article 26d); and specific obligations in relation to victims of violence against women and domestic violence (Article 27a).

On 10 December 2025, the Council and the Parliament reached a provisional agreement, so Member States will be required to put in place victims' helplines, facilitate reporting of criminal offences for victims and third parties, ensure access to legal aid for those who need it and ensure compensation for victims by execution and enforcement measures, available services for victims with specific needs, especially for those in need of physical protection, in life-threatening situations or for victims of sexual violence, child victims shall have access to child-friendly services that offer age-appropriate support and protection and protection of victims' personal data.

3.2. Child-victims protection by the LJC

The LJC promotes comprehensive approach for protection of child-victims as well as child-witnesses, as the most vulnerable participants in the criminal procedure, which is very important

⁴⁵ European Parliament, Legislative Train Schedule, revision of the victims' rights acquis, available at: <https://www.europarl.europa.eu/legislative-train/theme-protecting-our-democracy-upholding-our-values/file-revision-of-the-victims-rights-acquis>.

⁴⁶ Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, COM(2023) 424 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0424>.

for avoiding secondary victimization.⁴⁷ The Victims' Rights Directive had a huge impact toward advancing legal framework regarding Macedonian juvenile criminal justice system.⁴⁸

Further training of persons working with victims is needed, in order to sensitize them to the individual needs and respectful treatment of victims due to the fact that formal and informal education of state officials and other persons dealing with victims of crime should be supplemented by providing clear guidance and instructions and they should be part of a harmonised system of protection in which the roles of all actors are clearly defined.⁴⁹

The LJC accepts the definitions from Article 2 of the Directive, so it defines the term "child victim" as any child under the age of 18 who has suffered harm, including physical or mental injury, emotional suffering, material loss or other injury or threat to rights and interests as a result of an act committed that is legally defined as a crime, as well as a person whose age cannot be reliably determined if there are reasons to believe that the person is a child victim. The term "victim" has been expanded so it encompasses family members of the child victim, whose death occurred as a result of the crime and who suffered damage as a result of the death of the child victim, are also considered victims, as well as so-called indirect victim, a term that includes the family members of a child victim who died as a result of the crime.

There is a basic principle in the LJC that a child victim is dealt with by an inter-sectoral team for the protection of child victims, depending on the risk assessment, based on a Protocol for mutual cooperation and coordination in proceedings toward child victims.⁵⁰

A child victim of a crime has a set of rights (Article 166, LJC):

- part of them linked with his personal protection (to be treated with respect of dignity; respecting his right to privacy;⁵¹ to be protected from intimidation and retaliation; to be protected from any kind of discrimination), child-friendly approach when notifying for rights (to be informed of his rights in a language understandable and appropriate to his age and psychophysical condition);
- some of them linked with the institutional protection (the right to special protection from secondary victimization or re-victimization);
- several rights linked with the parents/guardian (to be accompanied by the parents or guardian or another adult during the proceedings before the body conducting the procedure; to have the child, parents or guardian informed of all issues related to the crime, the criminal procedure, and in relation to the suspect, the accused and the convicted person; to participate in the criminal procedure as a damaged party with the parents or guardian by joining the criminal prosecution or for the realization of the property-law claim for damage; to special protection of his safety and the safety of his family, care and attention by the authorities and entities participating in the criminal procedure, the parents or guardian to be informed of the termination of detention or other measure to ensure the presence of the child in conflict with the law or the accused and of the release of the

⁴⁷ Lažetić, G., et al. Child Delinquency and Justice for Children, 2025, available at: https://www.researchgate.net/publication/391087014_Detsko-prestapnistvo_i_pravda_za_deca_2025_Child_delinquency_and_juvenile_justice_University_Book.

⁴⁸ B.Misovski, D.Ilic-Dimoski, The impact of the EU Directive 2012/29/EU on Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime to the Macedonian Criminal Procedure, Conference Proceedings 2019, Iustinianus Primus Law Review, 2020.

⁴⁹ Gavrilovski, Z. Gap Analysis of the Alignment of the Legislation and Practice on Victims' Rights in the Republic of North Macedonia with the Norms and Standards of the European Union Established in Directive 2012/29/EU, Macedonian Young Lawyers Association, 2021, available at: https://myla.org.mk/wp-content/uploads/2021/09/GAP-analiza_A4_WEB-compressed.pdf.

⁵⁰ Article 166 para. (4), LJC.

⁵¹ In accordance with Article 21 of the Directive, so that privacy includes personal characteristics of the victim, as well as images of victims and of their family members.

convicted person from serving the prison sentence; the parents or guardian to be informed of any decision by which the criminal procedure is legally terminated or terminated; parents or guardians have the right to access victim support services provided through authorities, institutions and organizations and other rights prescribed by law depending on the needs and the degree of damage suffered as a result of the crime committed against the victim);

- rights linked with the statement given by the child-victim (giving a statement in conditions adapted to his needs and development in a safe environment; giving a statement without undue delay after filing a criminal complaint, which is recorded in accordance with the provisions of this law and used as evidence during the procedure;

- access to assistance, services and support (information regarding access to medical, psychological and other professional assistance and support by authorities, institutions and organizations for the assistance of child victims of crimes, before the commencement, during and after the completion of the criminal procedure; the right to access services for victim support provided through authorities, institutions and organizations and other rights prescribed by law;⁵² and

- medical examinations only if necessary for the purposes of the criminal procedure.

In accordance with the Directive, some victims are particularly at risk of secondary and repeat victimization, of intimidation and of retaliation and since it is possible that such a risk derives from the personal characteristics of the victim or the type, nature or circumstances of the crime, only through individual assessments, carried out at the earliest opportunity, can such a risk be effectively identified.⁵³ In line with the Right for individual assessment of victims to identify specific protection needs (Article 22, Directive, the LJC (Article 169) stipulated the individual assessment of the child-victim before his examination shall be undertake in order to determine whether there is a need for the application of one or more special measures for procedural protection. Victims of terrorism, organized crime, trafficking in human beings, gender-based violence, violence in close relationships, sexual violence, sexual exploitation, hate crimes and victims with disabilities shall be included in the individual assessment in an appropriate manner. The child victim has the right for special procedural protection measures when giving a statement (Article 170), which is in line with the Article 23 of Directive - Right to protection of victims with specific protection needs during criminal proceedings. Procedural measures according the LJC are mandatory when the child victim is in need of special care and protection or when the child is a victim of child trafficking or sexual abuse, as well as of crimes against humanity and international law.

Taking into account the measures mentioned in Article 23 para. 3 of Directive (to avoid visual contact between victims and offenders; to ensure that the victim may be heard in the courtroom without being present; to avoid unnecessary questioning concerning the victim's private life; and measures allowing a hearing to take place without the presence of the public), among special measures of procedural protection of child victims and child witnesses (Article 171, LJC) are the following: use of screens to protect the victim and witness from the view of the accused; concealment of identity or appearance; giving testimony via videoconference; removal of gowns and caps; exclusion of the public; video and audio recording of the testimony to be used as evidence; video and audio recording of the interrogation to be used as evidence; taking a statement

⁵² The Evaluation of Directive identified uneven implementation and gaps in access to information, support services, and protection—especially for vulnerable victims across EU member states, Evaluation of Directive 2012/29/EU, SWD(2022) 180 final, Brussels, 28.6.2022, op.cit.

⁵³ Recital (55), (56), Directive 2012/29/EU.

through the intermediary of an expert; use of special technical means of communication and protection of the privacy of the child and his family.

All those rights are in line with Victims’ Rights Directive from 2011, however the institutional possibilities for successful implementation of the legislative provisions are still a challenging issue. The legal and institutional framework on rights of the child is in place, but the implementation and enforcement need to be improved.⁵⁴ Directive set a benchmark for international law on victims’ rights, but requires stronger enforcement mechanisms due to a gap between law on paper and practice so victims often still face barriers in accessing justice and support.⁵⁵

After adoption of the 2024 Proposal for amending of this Directive, there will be a need to adjust the legislative framework to the new rights, support and services that are going to be part of amended Victims’ Rights Directive.

3.3. Trends of child-victims of crimes in North Macedonia

Available statistical data for child-victims had been collected by the State Council for Justice and Prevention of Child Delinquency.⁵⁶ It is a body established by the Parliament in 2014, after adoption of the previous Law on justice for children in 2013.⁵⁷ Since 2014 State Council has collected data regarding 32 indicators, from 87 institutions in the justice system for children: 8 Departments of Internal Affairs, 30 Centers for Social Work (CSW), 26 Basic Courts, 22 Basic Public Prosecutor's Offices and the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption (PPO’s).

The Indicator No. 2 refers to child victims and this indicator indicates the number of children who were victims of crimes recorded in institutions in the juvenile justice system during one year per population of 100,000 children. Available data about children-victims during the period 2017-2024 in the CSW, Police, PPO’s and Courts is presented on the following table.

Table 1: Child-victims in CSW, Police, PPO’s and Courts 2017-2024

Year	CSW		Police		PPO's		Courts	
	Total number	Number per population of 100,000 children	Total number	Number per population of 100,000 children	Total number	Number per population of 100,000 children	Total number	Number per population of 100,000 children
2017	88	21	499	119	250	60	111	26
2018	159	38	498	120	401	97	295	71
2019	339	83	374	91	403	98	84	21
2020	151	37	327	80	601	147	626	153
2021	846	206	504	123	352	86	513	125
2022	1315	320	524	128	246	60	306	75
2023	212	58	740	219	414	113	142	39
2024	296	81	572	157	441	121	185	51

Source: State Council Annual Reports

⁵⁴ North Macedonia 2025 Report, op.cit.

⁵⁵ Lehmkuhl, M. J. “The Value of Legal Provisions for an Adequate Treatment of Victims of Crime: Does the Victims’ Rights Directive of the European Union Set a New Benchmark?” in Joseph, J. and Jergenson, S. (eds.), *An International Perspective on Contemporary Developments in Victimology*, Springer, 2020, pp. 181–196, https://doi.org/10.1007/978-3-030-41622-5_13.

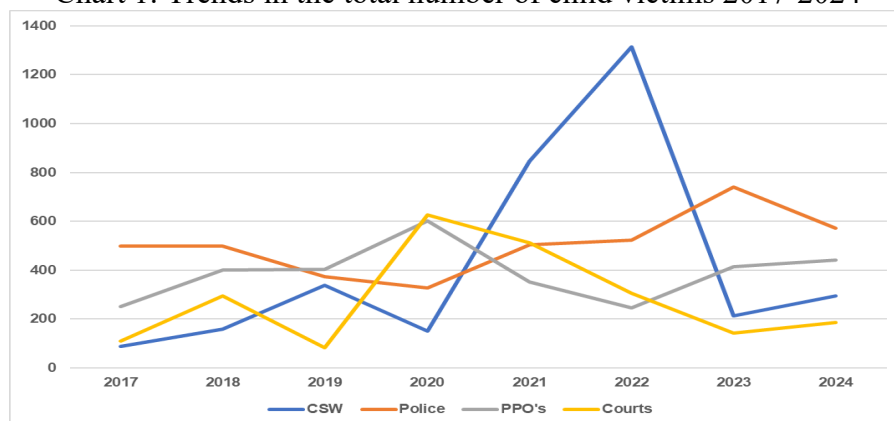
⁵⁶ State Council for Prevention of Juvenile Delinquency, official website: <https://dspdp.com.mk/>

⁵⁷ Law on Justice for Children, Official Gazette of the Republic of Macedonia, No. 148/2013, 152/2019 and 275/2019.

Regarding the CSW, there is a sharp rise from 88 in 2017 to a peak of 1315 in 2022, and after the peak, there's a dramatic drop to 212 in 2023, followed by a modest rise to 296 in 2024. This could reflect changes in reporting practices, policy shifts, or resource allocation. The 2022 spike may indicate a surge in referrals or interventions, possibly due to post-pandemic social issues. When analyzing data from the police the number was consistent in 2017-2018, there is a decline to 327 in 2020, then a steady increase to 740 in 2023, and again slight drop in 2024 to 572. The dip in 2020 may be linked to COVID-19 disruptions. PPO's starts at 250 in 2017, peaks at 601 in 2020, then drops sharply to 246 in 2022 and rises again to 441 in 2024. The 2020 peak may reflect backlog clearance. The courts data starts at 111 in 2017, peaks at 626 in 2020, then drops to 142 in 2023 and rises up to 185 in 2024. The 2020 spike aligns with the PPO peak, possibly indicating a push to resolve cases. The decline afterward may reflect systemic delays or reduced caseloads.

The chart below illustrates the trends in the total number of child victims recorded by each authority over the analyzed period.

Chart 1: Trends in the total number of child victims 2017-2024



Source: State Council Annual Reports

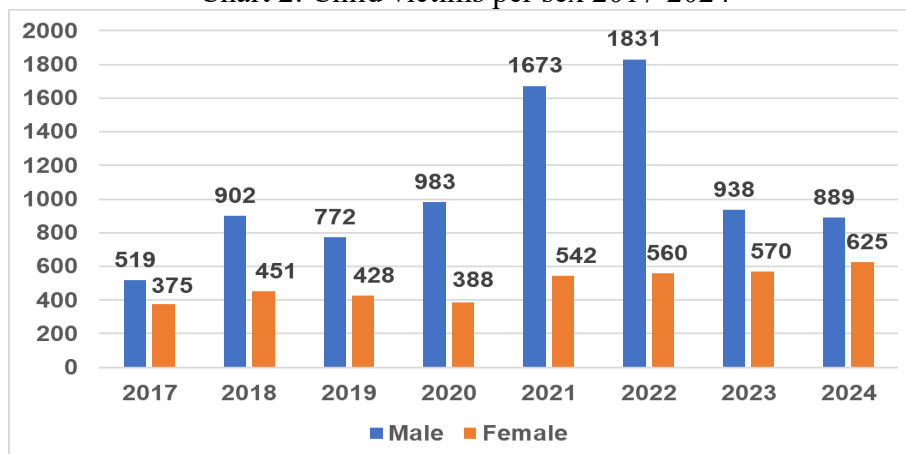
If analyzing cross-year highlights in 2020 all authorities except CSW show significant peaks, possibly due to post-lockdown case processing. There is anomaly in 2022 so that CSW hits its highest point while PPO and Courts drop that might suggesting a shift toward social intervention over legal prosecution. There is period of stabilization in 2023–2024 so that numbers begin to normalize, though CSW remains lower than its peak.

From the conclusions and recommendation in the State Council's annual reports that are sent to the Parliament, it become clear that there are inconsistencies, ambiguities, deviations in the collected data from different sectors and there are difficulties in presenting a relevant number of child victims without a tendency to duplicate them and count the same child who has passed through all sectors in the justice system for children (police-prosecution-court). The reasons for this situation are the different interpretations of the definition of a child victim of a crime in the LJC, the non-unified treatment of child victims internally in each of the sectors, as well as by each sector individually and, of course, the absence of inter-sectoral cooperation.⁵⁸

⁵⁸ Lažetić, G., and Petrovska, N. "The State of Juvenile Delinquency through the Reports of the State Council for Prevention of Juvenile Delinquency," International Day for Tolerance on the topic: The Effect of the Implementation of the Convention on the Rights of the Child, Centre for Strategic Research "Ksente Bogoev," Macedonian Academy of Sciences and Arts, 20.11.2019; Lažetić, G., Petrovska, N., and Kikerekova, T. "The More Important Amendments

There is also possibility to analyze data from the State Council regarding sex of the child victim over the analyzed period. Presented data on the chart below shows that the trend of male child victims had the peak in 2021-2022 and after that there is declining trend. On the contrary, the number of female child victims does not have such a peak during the analyzed period but there should be concerns because since 2020 there is constantly increasing trend of female child-victims

Chart 2: Child victims per sex 2017-2024



Source: State Council Annual Reports

The State Statistical Office does not offer data regarding total number of child-victims of crime, but only child-victims to domestic violence and victims of sexual abuse.

Table 2: Child victims of domestic violence and sexual abuse 2017-2024

	2017	2018	2019	2020	2021	2022	2023	2024
Victims of domestic violence	55	39	131	119	215	214	237	226
Victims of sexual abuse	13	8	23	64	80	61	73	62

Source: State Statistical Office

The data indicate a sustained upward trajectory in the number of child victims of both domestic violence and sexual abuse across the analyzed period. Specifically, cases of domestic violence increased from 55 recorded child victims in 2017 to 226 in 2024, while incidents of sexual abuse rose from 13 child victims in 2017 to 62 in 2024. These figures demonstrate a consistent growth pattern, underscoring the escalating prevalence and recognition of such criminal offenses against children.

IV. PENITENTIARY INSTITUTIONS FOR CHILDREN

4.1. International and European perspective

Children who commit criminal offenses shall be placed in institutions designed to implement educational measures with focus on rehabilitation, social reintegration, and education and institution for implementing child imprisonment. The UN Convention on the Rights of the

to the Law on Justice for Children in the Light of Trends and the State of Juvenile Delinquency,” Macedonian Review of Criminal Law and Criminology, No. 1–2/2024.

Child (CRC),⁵⁹ and the European Rules for Juvenile Offenders Subject to Sanctions or Measures require that detention be used only as a last resort. In accordance with CRC, children in conflict with the law must be treated in a way that promotes dignity and reintegration (Article 40), they must not be subjected to torture or cruel treatment and detention must be a last resort (Article 37). The key UN document that specifically addresses conditions in penitentiary institutions for juveniles is the UN Rules for the Protection of Juveniles Deprived of their Liberty, known as Havana Rules.⁶⁰ These rules set minimum standards for conditions in juvenile detention facilities and for the treatment of children in detention, emphasizing that deprivation of liberty must be a last resort, for the shortest possible time, juveniles must be separated from adults and always in conditions that safeguard dignity, education, health, and reintegration and providing vocational training, healthcare, and recreation. Havana Rules prohibits torture, cruel or degrading treatment, as well.

The Council of Europe Recommendation on the European Rules for juvenile offenders subject to sanctions or measures CM/Rec(2008)11,⁶¹ stresses that juvenile justice systems must provide individualized educational programs, psychological care, and family involvement. Institutions are therefore expected to operate more like educational centers than prisons, with multidisciplinary staff including teachers, social workers, and psychologists. The manner of implementation of sanctions or measures, shall be specified by law and based on the principles of social integration and education and of the prevention of re-offending. The recruitment, special training and conditions of work of staff implementing sanctions and measures shall ensure that they are able to provide the appropriate standard of care to meet the distinctive needs of juveniles and provide positive role models for them. Lack of resources shall never justify the infringement of the human rights of juveniles.

These standards emphasize rehabilitation over punishment, requiring institutions to function more like educational and social centers than prisons.

The Committee for Prevention of Torture (CPT) insists that juveniles must be held in specialized facilities, separated from adults, and treated in environments tailored to their developmental needs. CPT has long advocated that all detained juveniles who are suspected or convicted of a criminal offence should be held in detention centers specifically designed for persons of this age, offering a non-prison-like environment and regimes tailored to their needs and staffed by persons trained in dealing with the young. Male and female juveniles who are placed in the same institution should be accommodated in separate units, although they may associate for organized activities during the day, under appropriate supervision.⁶²

The European Rules for Juvenile Offenders highlight individualized educational programs, psychological care, family involvement, and multidisciplinary staff as essential components of child-friendly justice.

4.2. Macedonian Legal Framework and Practical Challenges

⁵⁹ UN Convention on the Rights of the Child, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

⁶⁰ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty>.

⁶¹ Recommendation on the European Rules for juvenile offenders subject to sanctions or measures CM/Rec(2008)11.

⁶² Juveniles deprived of their liberty under criminal legislation, Extract from the 24th General Report of the CPT, 2015, CPT/Inf(2015)1-part rev1.

All types of sanctions and measures that can be imposed toward the children are stipulated with the LJC and the Law on execution of sanctions stipulates the manner of implementation of all sanctions toward children.⁶³ The adoption of the National Strategy for Deinstitutionalization in the Republic of Macedonia 2018-2027,⁶⁴ changed the penitentiary map of educational institutions for children and contributed to the placement of children in small group homes instead of large educational institutions that did not meet the needs for successful reeducation and development of children.

Regarding LJC there are several changes regarding educational measures toward children. Namely, in the case of the educational measure - Referral to an educational institution, which can be imposed toward a child in cases where it is necessary to provide constant supervision by professionals for the purpose of upbringing, re-education and proper development, a novelty in the legal solutions is that when imposing it, the court is obliged to determine its duration within the legally prescribed framework – from at least six months up to three years. In addition, the educational institution is obliged to submit a report every six months, i.e. 60 days before the expiration of the duration of the measure determined by the court. The court may refer a child to a Correctional educational institution for whom more permanent and intensified measures of upbringing and re-education and his/her complete separation from his/her previous environment should be applied. The child shall remain in a correctional institution from at least six months up to five years, i.e. until the age of 23, and its duration shall be determined by the court when imposing the measure. When deciding whether to impose this measure, the court shall take into account in particular the gravity and nature of the committed act and the circumstance of whether the child has previously been imposed with educational measures or a prison sentence for children. The correctional institution shall submit a report every six months, i.e. 60 days before the expiry of the duration of the measure determined by the court.

It is particularly important that the children's judge has also been given jurisdiction over the enforcement of sanctions. This is a significant change, given the fact that practice has shown that judges for the enforcement of sanctions, overloaded with a large number of cases, did not always manage to take all the necessary actions in time to begin the enforcement of the imposed educational measure. This solution also supports the fact that the educational measure has a greater effect if its enforcement begins as soon as possible after the judge has pronounced it and that the judge for children has the best knowledge of the circumstances and reasons for imposed measure and can take a decision after receiving report from the institution for execution of the educational measure.

The legal framework for execution of sanctions has been advancing the principles regarding conditions and functioning of penitentiary institutions for children – both for educational measures and for prison for children. Penitentiary institutions for children in our country have been subject of analyzes due to the efforts for identifying challenges and relevant issues regarding the conditions and regarding the treatment of the children, as well.⁶⁵

⁶³ Law on Execution of Sanctions, Official Gazette of the Republic of North Macedonia, No. 99/2019, 220/2019, 236/2022, 74/2024 and 258/2025.

⁶⁴ National Strategy for Deinstitutionalization in the Republic of Macedonia 2018–2027, available at: <https://portal.mdt.gov.mk/post-body-files/nacionalni-strategii-file-rv1b.pdf>.

⁶⁵ Kambovski, V., et al. Analysis of the Situation in Institutions Accommodating Children at Risk and Children in Conflict with the Law in the Republic of Macedonia, Macedonian Penology Society, Skopje, 2018, available at: <https://msp.mk/wp-content/uploads/2019/07/>; Arnaudovski, Lj., *Penology: A Science on the Execution of Criminal Sanctions*. 1998. Skopje: Faculty of Law.

Regular monitoring and inspection of educational correctional facilities and prisons is crucial to protect and provide services to detained children.⁶⁶

The huge step forward was removal of children toward whom the educational measure Referral to correctional educational institution was imposed from Prison Ohrid in Educational correctional institution in Volkovija, Tetovo in May 2021.⁶⁷ This is due to the fact that conditions become much advanced since the opportunities in the Volkovija facility are much more suitable and can offer better treatment and more successful resocialization of the children.

Educational measures are implemented in Educational correctional institution in the village of Volkovija near Tetovo. The purpose of the implementation of educational measures is protection, education, upbringing and re-education, socialization, assistance and care for children in order to ensure the proper development of their personality. Institutional measures are carried out by referral to an educational institution and by referral to an Educational-correctional institution. The work in the educational-correctional institution is organized in such a way that the child is provided with conditions for primary and secondary education and upbringing, for the acquisition and development of positive habits, values and for work training and training for certain occupations.⁶⁸ Children serve their prison sentence in a special penal and correctional institution, separated from adults. Although male children are accommodated separately from female children,⁶⁹ they may participate in vocational training programs, educational, social and recreational activities together.⁷⁰

Taking into account the fact that the educational measure – referral a child in correctional educational institution, there is a proposal for continuous primary care and specialized services in the field of child and adolescent psychiatry and psychology to be organized in this institution. The manner of organizing and providing these services and the necessary professional staff are regulated by a by-law adopted by the Minister of Health. There is also proposal for adoption of by-laws that the Minister of Justice, upon the proposal of the Director of the Institution of Corrections, will adopt - the manner of treating the child in the reception unit; the manner of placement in educational groups; the manner of granting benefits; and disciplinary responsibility and the manner of separation.⁷¹

With the new proposed amendments of the Law on execution of sanctions, recognizing the unsuitability of the Ohrid Prison for serving a prison sentence for children, there is a proposal according to which it is necessary to transfer children sentenced to prison sentences for children from Prison in Ohrid to a separate part of the facility in Volkovija - Tetovo. With such proposed

⁶⁶ North Macedonia 2025 Report, op.cit.

⁶⁷ Special Report on the Conditions for the Execution of the Educational-Correctional Measure of Referral to an Educational-Correctional Institution and the Degree of Realization of the Rights of Children (currently functioning within Prison Ohrid), Skopje, May 2016, available at: <https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Posebni%20izvestaj/2016/Informacija%20VPD%20Tetovo-Ohrid-mk.pdf>, Dzugumanova, I., et al. First Report on the Situation and Conditions in Penal-Correctional and Educational-Correctional Institutions in the Republic of North Macedonia for the Period from 1 August to 1 October 2020, Helsinki Committee for Human Rights, 2021, available at: <https://myla.org.mk/wp-content/uploads/2021/02/Izvestaj-Helsinki-Popravni-Domovi-MK.pdf>.

⁶⁸ Miloševski, A., Pajaziti, P., Dimovska, D., and Mujoska Trpevska, E. Law on Execution of Sanctions: Challenges, Practical Problems, Solutions, available at: <https://skopje.osce.org/sites/default/files/f/documents/d/1/548914.pdf>.

⁶⁹ There is only one female child in Educational correctional institution in Tetovo, that was transferred from Prison in Idrizovo in October 2025.

⁷⁰ Miloševski, A., Pajaziti, P., Dimovska, D., and Mujoska Trpevska, E. Law on Execution of Sanctions: Challenges, Practical Problems, Solutions, available at: <https://skopje.osce.org/sites/default/files/f/documents/d/1/548914.pdf>.

⁷¹ Law Amending the Law on Execution of Sanctions, available on ENER: <https://ener.gov.mk>

amendments, the institution in Volkovija will simultaneously be a correctional educational institution as well as prison facility for children, both for boys and girls. Appropriate construction interventions are necessary in the part of the institution where the prison facility for children will be located, in order to separate it from the correctional educational institution. Taking into account the need to adapt this institution in accordance with the new legal solution, there is a *vacation legis* of three years for implementation of this solution. It is necessary to emphasize that the treatment, not architectural solutions, are crucial for achieving results in terms of resocialization, social adaptation, upbringing and re-education of children who have been subjected to various institutional measures and sanctions.⁷²

V. CONCLUSIONS AND RECOMMENDATIONS

The analysis of the advanced legal framework for justice for children demonstrates that while significant progress has been made in aligning national legislation with international standards, challenges remain in ensuring full protection of children's rights. The justice system increasingly recognizes the principle of the best interests of the child, but practical implementation is uneven. Specialized institutions and procedures exist, yet they often lack adequate resources, coordination, and training. Moreover, children's participation in judicial processes is still limited, and mechanisms for monitoring and accountability are not sufficiently robust.

Overall, the framework reflects a growing commitment to child-friendly justice, but further reforms are necessary to guarantee that every child experience equal protection, dignity, and access to remedies. The Law on Justice for Children (LJC) and the Law on Execution of Sanctions provide a structured framework for educational and correctional measures, with clear timelines and reporting obligations. The transfer of children from Ohrid Prison to the Volkovija Educational Correctional Institution in 2021 was a major step forward, improving conditions and opportunities for resocialization. The Tetovo Juvenile Educational Correctional Facility in North Macedonia has been recognized as a key institution for children in conflict with the law, but recent assessments highlight both progress and persistent shortcomings. While infrastructure has been modernized with EU and Council of Europe support, serious issues remain regarding access to education, rehabilitation programs, and compliance with international child-friendly justice standards.

Regarding recommendations there is a need for strengthen institutional capacities of the specialized child-friendly units within courts and prosecution offices. There is also a need for continuous training regarding trauma-informed approaches for judges, prosecutors, police and social workers. Intersectoral coordination is crucial, so there is a need to foster stronger collaboration between justice institutions, social services, schools, and civil society organizations and develop integrated case management systems that will provide avoiding risks for duplication and delays.

⁷² Lažetić, G., Tupančeski, N., Gruevska-Drakulevski, A., and Mujoska Trpevska, E. "Improving the Legal Framework for the Execution of Sanctions," *Macedonian Review of Criminal Law and Criminology*, No. 1–2/2025, available at: <http://www.maclc.mk/publicationyear/22>.

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