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TO
AIMJF COMPARATIVE RESEARCH QUESTIONNAIRE – ROMANIA,
MR. EDUARDO REZENDE MELO,

Following your address, we are sending you the answer to the questionnaire sent.

1. General Information

1.1. The minimum age of criminal responsibility in Romania is 14 years old. According to Article 113 (1) of the Romanian Criminal Code: "A minor who has not reached the age of 14 shall not be held criminally liable."

1.2. Yes. Romania provides for two thresholds of criminal responsibility:

- Under 14 years old: the child is entirely exempt from criminal liability.
- Between 14 and 16 years old: the child is criminally liable only if it is proven that he/she had criminal discernment at the time of the offense (Article 113 (2) of the Criminal Code).
- Over 16 years old: the minor is fully criminally responsible, like an adult.

This framework allows for the application of the "doli incapax" principle between the ages of 14 and 16, where the prosecution must prove the child had the capacity to understand the unlawful nature of the act.

2. Age Assessment

2.1. The assessment of criminal discernment is performed by a court-appointed psychological expert. There is no single national protocol, but the evaluation generally includes psychological interviews, behavioral analysis, and standardized testing. The child is heard in the procedure and benefits from legal assistance. The conclusions of the expert evaluation may be challenged through procedural means.

2.2. When the child has no birth registration, age assessment is done through forensic anthropological expertise. This is ordered by the prosecutor or the court. The child is heard during the procedure, represented by legal counsel or a legal guardian, and may challenge the findings.

3. Police Intervention

3.1. A child under the age of criminal responsibility may be brought to a police station, but it is not mandatory. It is typically done when the child has committed a serious act or for identification/protective purposes.

3.2. If the child is brought to the police station, the police must notify the parents or legal guardian and child protection authorities. The child cannot be detained or imprisoned. Temporary holding is allowed only until the child is safely handed over. Any deprivation of liberty for children under 14 is strictly prohibited.

4. Measures

4.1. Yes, non-criminal protective measures may be applied under Law no. 272/2004 on the protection and promotion of the rights of the child. These include psychological counseling, family supervision, day care center enrollment, or placement in a foster family.

4.2. Yes, out-of-home placement is possible when the child's environment is deemed dangerous. Placement may occur in foster care, institutions, or specialized health facilities. The measure is proportionate and time-limited, depending on the child's needs.

5. Procedure

5.1. Protective measures are imposed by the General Directorate for Social Assistance and Child Protection (DGASPC), or by the guardianship court in serious cases.

5.2. The procedure is of a civil nature. It involves assessment reports, child and family hearings, and judicial oversight. The judge may also hear the child directly, especially if over the age of 10.

5.3. Alternative resolution mechanisms, such as mediation or psychological support programs, may be used, though not yet formally institutionalized for children under the age of criminal responsibility.

6. Assessment

6.1. A comprehensive assessment is conducted by the DGASPC, covering vulnerabilities, risks, and rights violations. The team includes psychologists, social workers, and legal experts. Internal guidelines exist, but no national unified protocol is publicly available. A written report is produced and used in court proceedings if necessary.

7. Legal and Procedural Guarantees

7.1. The child has the right to be heard, to legal representation, to privacy and dignity, and to access appropriate social and psychological services, as outlined in Law no. 272/2004.

7.2. Yes, the child (through a legal representative) may refuse certain measures and challenge them in court.

7.3. Non-compliance may lead to review or modification of the protective measure. It cannot lead to criminal sanctions but may involve stricter protection.

8. The Role of the Justice System

8.1. The justice system may intervene to impose or review protective measures, settle custody or guardianship disputes, or ensure enforcement. The competent courts are family or guardianship sections of the district courts.

8.2. The civil procedure includes submission of evaluation reports, hearings, and judicial decision. Hearings are held in private. Children over 10 are heard unless inappropriate.

8.3. The child has the right to legal assistance, to be heard, and to appeal against court decisions. A special legal guardian may be appointed.

9. Assistance or Support

9.1. Yes, voluntary support is available including psychological counseling, educational support, family mediation, and medical care. These services are free of charge and accessible through DGASPC.

10. Child Participation

10.1. The child is heard during the administrative or judicial procedures, by social workers, psychologists, and judges, depending on the stage.

10.2. The child may be heard more than once, depending on case evolution and procedural stage.

10.3. Yes, internal guidelines issued by the National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) exist. Romania also applies the CEPEJ Guidelines on child-friendly justice.

11. Legal Implications

11.1. Acts committed by children under 14 are not recorded as crimes. However, police or child protection agencies may keep internal records for monitoring purposes. These are not considered criminal records and have no bearing after the child reaches the age of responsibility.

11.2. Victims may seek civil remedies against the child's parents under tort liability rules (Article 1372 of the Civil Code). Victims may express views during proceedings and may influence certain protective measures.

12. Reforms in Progress

12.1. Ongoing reforms include development of restorative justice programs for minors, and creation of specialized centers for children with serious behavioral issues below the age of criminal responsibility.

With consideration,

**PRESIDENT OF THE JUVENILE AND FAMILY COURT BRAȘOV,
JUDGE ANCA CAZAC**



**FIRST CLERK
DIANA - NICOLETA PRUTEANU**

