



CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY IN POLAND: MEASURES, RIGHTS, PROCEDURE, PARTICIPATION

National Report for AIMJF's Comparative and Collaborative Research.

Niños por debajo de la edad de responsabilidad penal en Polonia: medidas, derechos, procedimiento, participación

Informe nacional para la investigación comparativa y colaborativa de la AIMJF

Enfants n'ayant pas atteint l'âge de la responsabilité pénale en Pologne: mesures, droits, procédure, participation

Rapport national pour la recherche comparative et collaborative de l'AIMJF

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Abstract: The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on children below the age of criminal responsibility. The article explains the applicable measures and the procedure adopted, the child's rights and his or her participation in the Protective and Justice System in Poland.

Resumen: El documento es parte de una investigación colaborativa organizada por la Asociación Internacional de Juventud y Familia (AIMJF) sobre niños por debajo de la edad de responsabilidad penal. El artículo explica las medidas aplicables, el procedimiento adoptado, los derechos del niño y su participación en el sistema de protección y de justicia en Polonia.

Résumé : Le document fait partie d'une recherche collaborative organisée par l'Association Internationale des Magistrats de la Jeunesse et de la Famille (AIMJF) sur les enfants n'ayant pas atteint l'âge de la responsabilité pénale. L'article explique les mesures possibles d'application et la procédure adoptée, les droits des enfants et leur participation dans le système de protection et de justice en Pologne.

Introduction

The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) represents worldwide efforts to establish links

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between judges from different countries, promoting transnational judicial dialogue, in order to provide better conditions for a qualified attention to children based in a human rights approach.

To do so, AIMJF organizes research on international problems facing the operation of the courts and various laws relating to youth and family and training programs.

The aims of this research are to identify similarities and discrepancies among countries and to develop a cartography of measures, procedure, rights and participation of children below the minimum age of criminal responsibility.

This national report is based on a questionnaire prepared by AIMJF.

Questionnaire

- 1. What is the minimum age of criminal responsibility in your country? (*The age of criminal responsibility refers to the age below which a child is deemed incapable of committing a criminal offence; this is distinct from the age of majority.*)**

Under the Polish legal system, liability for prohibited acts committed by minors is structured differently from criminal liability applicable to adults, taking into account the psychophysical development of the child as well as the constitutional principle of protecting the best interests of the child.

This system is based on a distinction between criminal liability *sensu stricto* and liability under the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, the primary objectives of which are education, prevention of demoralisation and rehabilitation, rather than repression.

As a general rule, proceedings concerning juveniles are conducted by the family court, which plays a central decision-making role in responding to manifestations of demoralisation and punishable acts committed by minors.

With respect to persons who have committed a punishable act after reaching the age of 13 but before attaining the age of 17, the provisions of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles apply, with the exception of cases specified in Article 10 §§ 2 and 3 of the Criminal Code.



Pursuant to Article 10 § 1 of the Criminal Code:

“A person who commits a prohibited act after attaining the age of 17 shall be liable under the principles set forth in this Code.”

An exception to this rule is provided for in Article 10 § 2 of the Criminal Code. This applies to a juvenile who, at the time of committing the act, had attained the age of 15, provided that the juvenile committed one of the offences enumerated in that provision and that the circumstances of the case, the degree of the offender’s development, their personal characteristics and personal circumstances—particularly where previously applied educational or corrective measures proved ineffective—justify criminal liability.

The offences referred to above include, inter alia:

- attempt on the life of the President of the Republic of Poland;
- homicide (including homicide with particular cruelty, in connection with hostage-taking, rape or robbery, motivated by reasons deserving particular condemnation, or involving the use of explosives);
- intentional causing of a catastrophe in land, water or air transport;
- rape and sexual coercion;
- hostage-taking;
- robbery;
- intentional causing of grievous bodily harm, including where such harm results in death;
- intentional causing of a generally dangerous event;
- hijacking of a watercraft, aircraft or public land transport vehicle;
- active assault on a public official.

Furthermore, as of 1 October 2023, a juvenile who has attained the age of 14 but has not yet reached the age of 15 and who commits an offence specified in Article 148 §§ 2 or 3 of the Criminal Code (qualified homicide) may be held criminally liable under the Criminal Code if the circumstances of the case, the offender’s degree of development, personal characteristics



and personal circumstances so justify, and if there is a justified assumption that the application of educational or corrective measures would not ensure the juvenile's rehabilitation.

The penalty imposed on a juvenile may not exceed two-thirds of the statutory maximum penalty provided for the offence, provided that the offence is not punishable by life imprisonment. When sentencing a juvenile or a young adult offender, the court is guided primarily by the objective of rehabilitation. A sentence of life imprisonment may not be imposed on an offender who was under 18 years of age at the time of the offence. The court may also apply extraordinary mitigation of punishment.

Pursuant to the Criminal Code, in the case of an offender who committed a misdemeanour after attaining the age of 17 but before attaining the age of 18, the court may apply educational, therapeutic or corrective measures provided for juveniles instead of a criminal penalty, if justified by the circumstances of the case and the offender's level of development and personal characteristics.

2. Is there more than one minimum age of criminal responsibility? If so, what are they? Does your country apply the principle of *doli incapax*?

The Polish legal system does not explicitly recognise the principle of *doli incapax* as understood in certain common law jurisdictions, i.e. a rebuttable presumption that a child is incapable of criminal responsibility unless sufficient maturity is demonstrated.

Nevertheless, Polish criminal law provides for a functionally analogous mechanism. Both in cases where the age of criminal responsibility is lowered pursuant to Article 10 §§ 2 and 2a of the Criminal Code, and when Article 10 § 4 of the Criminal Code is applied, the court is required to conduct an individualised assessment of the offender's psychophysical development, maturity, and capacity to recognise the meaning of the act and to control their conduct.

Criminal liability of a juvenile therefore has an exceptional and conditional character, rather than an automatic one.

Pursuant to Article 10 § 2 of the Criminal Code, a juvenile who had attained the age of 15 at the time of the offence may be held criminally liable if they committed one of the offences exhaustively listed in that provision, and if the circumstances of the case, the degree of the



offender's development, their personal characteristics and personal circumstances—particularly where previously applied educational or corrective measures have proved ineffective—justify such liability.

Pursuant to Article 10 § 3 of the Criminal Code, a juvenile who has attained the age of 14 but has not yet reached the age of 15 may be held criminally liable exclusively for qualified homicide as defined in Article 148 §§ 2 or 3 of the Criminal Code (including homicide committed with particular cruelty, in connection with hostage-taking, rape or robbery, motivated by reasons deserving particular condemnation, involving the use of explosives, multiple homicide committed in a single act, or homicide of a public official committed in connection with the performance of official duties related to public safety), provided that:

- the circumstances of the case,
- the degree of the offender's development, and
- their personal characteristics and personal circumstances

justify criminal liability, and that there is a justified assumption that the application of educational or corrective measures would not ensure the juvenile's rehabilitation.

Summary

- **General minimum age of criminal responsibility:** 17 years
- **Exceptions:**
 - from the age of 15 – for the most serious offences (Article 10 § 2 CC),
 - from the age of 14 – exclusively for qualified homicide (Article 10 § 2a CC),
 - possibility of applying the juvenile regime to offenders aged 17–18 (Article 10 § 4 CC).
- **Principle of *doli incapax*:**

Not explicitly recognised; replaced by a model based on an individualised assessment of the juvenile's maturity and development.



3. If the principle of *doli incapax* is applied, how is such an assessment carried out? Is there a specific methodology or protocol? Who conducts the assessment? Is the child heard? Does the child have legal assistance? Can the findings of the assessment be challenged?

It should be emphasised that the family court retains the competence to transfer a case to the public prosecutor where, in the course of proceedings conducted under the Act on Supporting and Rehabilitation of Juveniles, circumstances arise that may justify holding the juvenile criminally liable under Articles 10 §§ 2 or 2a of the Criminal Code, i.e. in exceptional cases involving the most serious offences (Article 67(1) of the Act).

From the moment the case is transferred to the public prosecutor, proceedings are conducted in accordance with the Code of Criminal Procedure, while maintaining enhanced procedural guarantees for the juvenile, including mandatory legal defence and the preservation of the procedural rights of the parents or legal guardians as parties to the proceedings.

In order to hold a juvenile criminally liable, the following statutory conditions must be met:

1. the offender must have attained the age of 15 or 14 at the time of the offence;
2. the offence committed must be one of those exhaustively listed in Article 10 §§ 2 or 2a of the Criminal Code;
3. the court must determine that the circumstances of the case and the degree of the offender's development, personal characteristics and personal circumstances justify criminal liability;
4. in the case of a juvenile aged between 14 and 15, there must be a justified assumption that the application of educational or corrective measures would not ensure rehabilitation.

According to established legal doctrine, the concept of the “degree of development” encompasses primarily the level of intellectual development (often assessed through intelligence testing), as well as moral and emotional development. “Personal characteristics and personal circumstances” include, inter alia, the offender's health, age, personality traits, degree of personality formation, character, and established patterns of reaction to stress and difficult situations. The “circumstances of the case” relate in particular to the manner in which the



offence was committed (e.g. brutality or cruelty) and the motivation of the juvenile offender, including offences committed “without reason”.

Assessment methods

The court examines the juvenile’s degree of development, personal characteristics and personal circumstances by means of:

- **Expert opinions**

Opinions are obtained from court-appointed experts or interdisciplinary expert panels, typically involving psychologists and psychiatrists, and in some cases pedagogues. These experts assess intellectual and emotional development, social maturity, the ability to understand the significance of the act, personality traits, possible mental disorders and addictions.

- **Environmental (social) inquiry**

Conducted by a probation officer and covering family, educational, school and peer environment, as well as material living conditions.

- **Documentation of previous educational interventions**

Including prior involvement of the family court, placement in youth educational or sociotherapeutic centres, probation supervision, and previous conflicts with the law, with particular attention to whether such measures proved ineffective.

- **Direct hearing of the juvenile**

The court may hear the juvenile directly and receive their explanations, applying procedural safeguards appropriate for minors.

The juvenile has the right to defence and may act personally or through counsel. Defence counsel may only be an advocate or legal adviser authorised to practise under Polish law.

Legal assistance may be provided from the earliest stage of proceedings, in particular:

- in the event of arrest or detention,
- during police questioning,
- when interim measures are applied.



The participation of defence counsel is mandatory in cases where:

- the interests of the juvenile conflict with those of their parents or guardians;
- the juvenile is unable to conduct their defence independently (e.g. due to mental health issues or disability);
- an interim measure involving placement outside the family home is applied;
- the case concerns the most serious offences;
- other circumstances significantly hinder the defence.

In such cases, the family court appoints defence counsel *ex officio*. Defence counsel may challenge the court's findings, including assessments concerning maturity, criminal responsibility and the proportionality of applied measures.

Summary

- Individual assessment of maturity: Yes
- Methodology: No uniform protocol; individualised, evidence-based assessment
- Assessing authority: Family court
- Right of the child to be heard: Yes
- Right to legal assistance: Yes
- Possibility to challenge the assessment: Yes

4. If it is necessary to determine the child's age (e.g. due to the absence of a birth certificate), how is this procedure carried out? Is the child heard? Does the child have legal assistance? Can the findings of the age assessment be challenged?

Under Polish law, the determination of a person's age is of fundamental importance for identifying the applicable legal regime (adult criminal law, juvenile law, or the exclusion of criminal responsibility). Where a birth certificate or other reliable documents confirming the child's age are unavailable, age determination is carried out in the course of proceedings conducted by the court or the public prosecutor, using all available evidentiary means.

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Polish law does not provide for a single formalised procedure or a uniform protocol for determining a child's age. Such determination is evidentiary in nature and individualised. In practice, it may include:

- analysis of available documents (domestic or foreign);
- statements made by the child and by other persons (e.g. guardians, family members);
- an environmental (social) inquiry;
- expert opinions, in particular from medical doctors and psychologists, including assessments of physical and psychological development, where deemed necessary.

The child may be heard in the course of the proceedings. The hearing must be conducted in a manner adapted to the child's age, level of maturity and psychological condition.

The child has the right to legal assistance. In proceedings where the determination of age affects the possibility of criminal liability, legal representation should be ensured, in particular where the case is examined by a court or where the child is unable to effectively safeguard their rights independently. Legal assistance may be provided ex officio.

Findings concerning the child's age may be challenged in the course of the proceedings. The child, acting within the limits of their procedural capacity or through defence counsel or a legal representative, may:

- challenge the credibility or reliability of expert opinions;
- request additional or supplementary evidence;
- lodge appeals against decisions based on disputed findings as to age.

5. When a child below the minimum age of criminal responsibility commits a prohibited act, is the child brought to a police station? Is this mandatory? If not, when is it necessary?

The Police may apprehend and subsequently place a juvenile in a police child holding facility if there is a justified suspicion that the juvenile has committed a punishable act and there is a



justified concern that the juvenile may abscond, conceal themselves, destroy evidence, or where the juvenile's identity cannot be established.

In order to prevent further demoralisation of the juvenile or the commission of further punishable acts during the proceedings, or to ensure the proper conduct of the proceedings, the family court may apply an interim measure.

Article 44 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles sets out a closed catalogue of interim measures, including:

- temporary supervision by a social organisation, including non-governmental organisations whose statutory purpose is educational, therapeutic or training work with juveniles, prevention of demoralisation or assistance in social reintegration, an employer, or a trustworthy person;
- temporary supervision by a probation officer;
- temporary referral to a probation centre or to a social organisation or institution engaged in educational, therapeutic or training activities, subject to prior consent of that organisation or institution;
- temporary placement in a professional foster family;
- temporary placement in a youth educational centre;
- temporary placement in a regional educational centre;
- temporary placement in a medical facility;
- placement in a juvenile shelter;
- temporary obligations imposed on the parents or guardians within the scope specified by statute.

6. What must the police do if a child is brought in? What legal safeguards apply? Can the child be deprived of liberty (even briefly)? If so, for how long?



The detention of a juvenile by the Police is not the rule, but an exceptional measure, permissible only in strictly defined circumstances. Pursuant to the Act on Supporting and Rehabilitation of Juveniles, the Police (and, within their competence, the Border Guard) may detain a juvenile and place them in a police child holding facility only if all of the following conditions are met:

- there is a justified suspicion that the juvenile has committed a punishable act constituting a criminal offence;
- there is a justified concern that the juvenile may abscond, conceal themselves, destroy evidence; or
- the juvenile's identity cannot be established.

Detention is always temporary and auxiliary in nature and serves solely to secure the proper course of proceedings.

Immediately following detention, the child must:

- be informed of the reasons for the detention;
- receive clear and comprehensible information about their rights, including in particular:
 - the right to defence,
 - the right to contact a parent or guardian,
 - the right to contact defence counsel,
 - the right to medical assistance,
 - the right to submit a statement to the detention record,
 - the right to receive a copy of the detention record,
 - the right to challenge the detention.

A detention record is drawn up and a copy is served on the juvenile.

The Police are required to immediately notify the competent family court and the juvenile's parents or guardians.



The juvenile has the right to immediate contact and a direct conversation with a parent, guardian or defence counsel, as well as the right to communicate with defence counsel without the presence of third parties.

The juvenile must be questioned without delay, in accordance with child-protection standards.

Time limits

Detention of a juvenile is subject to strict time limits. The juvenile must be released immediately if:

- the grounds for detention cease to exist;
- the family court so orders;
- within 24 hours of detention, the Police fail to submit materials justifying the suspicion to the family court;
- within 24 hours of the submission of materials, the court does not announce a decision imposing an interim measure.

Where the family court orders placement outside the family home, the juvenile may remain in a police child holding facility only for the time necessary to transfer them to the appropriate facility, not exceeding a further 5 days.

The Act also allows placement in a police child holding facility:

- for the duration of a break in escort or transfer – up to 24 hours;
- in the event of absconding from a youth educational centre, regional educational centre, correctional facility or juvenile shelter – for the time necessary to effect transfer, not exceeding 5 days;
- on the order of the family court, for the purpose of carrying out a specific procedural act – for a period not exceeding 48 hours.

Summary

- Detention of a child: exceptional, strictly regulated
- Authority: Police / Border Guard



- Safeguards: information on rights, contact with parents and counsel, detention record, judicial oversight
- Maximum duration:
 - generally up to 24 hours (judicial control),
 - up to 48 hours – by court order for a procedural act,
 - up to 5 days – exclusively for technical transfer purposes

7. Can any measures be applied to a child below the minimum age of criminal responsibility who has committed a prohibited act? If so, which measures?

Pursuant to Article 42 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, the family court may apply an interim measure in order to prevent further demoralisation of the juvenile, to prevent the commission of further punishable acts during the proceedings, or to ensure the proper conduct of the proceedings.

Article 44 of the Act sets out an exhaustive catalogue of interim measures, including:

- temporary supervision by a social organisation, including non-governmental organisations whose statutory purpose is educational, therapeutic or training work with juveniles, prevention of demoralisation or assistance in social reintegration, an employer, or a trustworthy person;
- temporary supervision by a probation officer;
- temporary referral to a probation centre or to a social organisation or institution engaged in educational, therapeutic or training activities, subject to prior consent;
- temporary placement in a professional foster family;
- temporary placement in a youth educational centre;
- temporary placement in a regional educational centre;
- temporary placement in a medical facility;
- placement in a juvenile shelter;



- temporary obligations imposed on the parents or guardians within the scope specified by statute.

Under the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, a child below the minimum age of criminal responsibility who has committed a prohibited act may be subject—depending on their situation, degree of demoralisation and developmental needs—to educational measures, a therapeutic measure, or a corrective measure.

Educational measures

Educational measures include, inter alia:

- a warning or reprimand;
- an obligation to engage in specified conduct, in particular:
 - to repair damage in whole or in part,
 - to provide compensation for non-material harm,
 - to perform community service,
 - to apologise to the victim,
 - to undertake education or employment,
 - to participate in educational, therapeutic or training activities (including addiction therapy, psychotherapy or psychoeducation),
 - to refrain from staying in certain environments or places,
 - to refrain from contacting the victim or specified persons,
 - to refrain from using psychoactive substances;
- supervision by responsible parents or guardians;
- supervision by a social organisation, employer or trustworthy person providing a guarantee for the juvenile;
- supervision by a probation officer;



- referral to a probation centre or to a social organisation or institution providing educational or therapeutic activities;
- a ban on driving all vehicles or specified categories of vehicles;
- forfeiture of items originating from or used to commit the prohibited act, including equivalents thereof;
- placement in a professional specialist foster family;
- placement in a youth educational centre;
- placement in a regional educational centre.

Therapeutic measure

A therapeutic measure consists in placing the juvenile in a medical facility providing psychiatric care or addiction treatment. This measure is protective and therapeutic in nature and is applied where the juvenile's mental health condition or addiction requires specialised treatment and where educational measures alone would be insufficient.

Corrective measure

A corrective measure consists in placement in a correctional facility. This is the most severe measure and may be applied only exceptionally, in cases of a high degree of demoralisation and where other measures have proven ineffective or offer no realistic prospect of rehabilitation. The decision is based on an individual assessment of the juvenile's situation, the nature of the act, the manner and circumstances of its commission, and the course of previous educational interventions.

The Act also provides for placement in a regional educational centre, which may be ordered where the degree of demoralisation and the nature and circumstances of the act so justify, in particular where other educational measures have proven ineffective. In especially justified cases, this may also apply to violent, hooligan-type offences, offences committed under the influence of psychoactive substances, or offences committed against vulnerable persons.

In cases of the most serious punishable acts specified in the Act (including homicide, grievous bodily harm, rape, robbery or causing a catastrophe), the family court will, as a rule, order



placement in a correctional facility, unless the overall circumstances of the case, the juvenile's personal characteristics and personal circumstances justify the application of a less severe educational measure.

In particularly justified cases, where there is a very high degree of demoralisation and the ineffectiveness of previous interventions, the family court may decide that a corrective measure continues to be executed after the juvenile attains the age of 21, but not beyond the age of 24.

8. Can placement outside the family home be ordered (e.g. foster care, institutional care, medical facilities)? In what situations and for how long?

Yes. Pursuant to Article 7(9)–(11) of the Act of 9 June 2022, educational measures may include placement of the juvenile in:

- a professional specialist foster family;
- a youth educational centre;
- a regional educational centre.

Additionally, pursuant to Article 8 of the Act, a therapeutic measure may consist in placement in a medical facility providing psychiatric care or addiction treatment.

Educational and therapeutic measures involving placement outside the family home are imposed without specifying a fixed duration. A characteristic feature of all juvenile measures is that they may be modified or revoked at any stage of enforcement, depending on changing circumstances and the juvenile's needs. They are therefore not definitive in nature and do not have to be executed in their originally imposed form or for a predetermined period.

Pursuant to Article 93 of the Act on Supporting and Rehabilitation of Juveniles, such measures expire by operation of law upon the juvenile reaching specific age thresholds, depending on the type of measure applied (generally between the ages of 18 and 21, with certain exceptions allowing extension up to 24 years of age).



9. Who imposes these measures? Is there a legal procedure for imposing them? What is the nature of this procedure?

Pursuant to Article 23 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, *“Proceedings in cases concerning juveniles shall be conducted by the family court, unless this Act provides otherwise.”*

Territorial jurisdiction of the family court is determined by the juvenile’s place of residence. Where establishing the place of residence proves difficult, jurisdiction is determined by the juvenile’s place of stay within the territory of the Republic of Poland. If neither of these bases can be established, the competent court is the family court of the place where the first manifestations of demoralisation occurred or where the juvenile committed their first punishable act.

Accordingly, educational measures, the therapeutic measure, the corrective measure, as well as placement of a juvenile in a regional educational centre are imposed by the family court. A decision on the application of educational measures, the therapeutic measure or the corrective measure is issued by the family court after holding a court hearing.

Where there are grounds to hold a juvenile criminally liable under Article 10 § 2 or § 2a of the Criminal Code, the case is examined by a court competent under the provisions of the Code of Criminal Procedure.

The measures referred to above are imposed by the family court following judicial proceedings conducted in accordance with the principles set out in the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles.

After the initiation of proceedings, the family court seeks to determine whether the juvenile demonstrates manifestations of demoralisation or has committed a punishable act, and whether there is a need to apply any of the measures provided for by the Act. For this purpose, information is gathered concerning the juvenile, their educational, health-related and living situation, and evidence is taken.

The victim may submit evidentiary motions until the commencement of the hearing, and the court may—on its own initiative or with the consent of the victim and the juvenile—refer the case to mediation.



In urgent cases requiring immediate action, the Police (and, within their competence, the Border Guard) may collect, conduct and secure evidence of demoralisation or a punishable act and, where necessary, detain the juvenile. The family court may also instruct the Police to carry out specific evidentiary activities.

Questioning of a juvenile by the Police must be conducted in the presence of at least one parent exercising parental authority, a legal guardian or defence counsel. Where ensuring the presence of such persons is impossible, another close person designated by the juvenile is summoned, or one of the persons indicated by statute (e.g. a relative, a representative of the school, a family assistant, a foster care coordinator, or a representative of a social organisation). A record of the questioning is drawn up, and the Police must immediately transmit the collected materials to the family court. In conducting these activities, the provisions of the Code of Criminal Procedure apply *mutatis mutandis*, subject to the modifications introduced by the Act.

At the same time, the hearing and questioning of the juvenile must take place under conditions ensuring freedom of expression, avoiding repeated questioning with respect to the same circumstances, and—where possible—should be recorded using audio or video recording equipment.

A key element of the proceedings is the determination of the juvenile's situation and social environment. The family court orders a social inquiry to be conducted by a probation officer, covering, *inter alia*, the juvenile's personal characteristics and living conditions, behaviour, educational and living environment, family situation, course of education or employment, manner of spending free time, social relations, educational influences, state of health and addictions. In exceptional cases, the inquiry may also be entrusted to other entities specified in the Act.

As a rule, the inquiry is conducted during daytime hours, usually at the juvenile's or parents'/guardian's place of residence or stay, but it may also be conducted at the school or workplace. The person conducting the inquiry prepares a report and submits it to the court without delay.

Where a more in-depth diagnosis of the juvenile's personality is required (pedagogical, psychological or medical), and where guidance is needed as to appropriate directions of intervention, the court seeks an opinion from the court-appointed panel of judicial experts, or—



where the juvenile is staying in a juvenile shelter—from the shelter. As a rule, such an opinion must be obtained before ordering placement in a youth educational centre, a regional educational centre, a medical facility or a correctional facility.

Where necessary, the court also orders an examination of the juvenile’s mental health by at least two expert psychiatrists. Observation in a medical facility, if required, is ordered after hearing the juvenile and, as a rule, lasts up to four weeks; exceptionally, it may be extended, but the total duration may not exceed six weeks.

After the evidentiary proceedings have been completed, the family court, as a rule, issues its decision after holding a hearing. At the hearing, the court hears the juvenile, who may submit comments and statements concerning each piece of evidence admitted. The parties, defence counsel, the victim and their representatives are notified of the hearing date; their absence does not, as a rule, prevent the case from being examined unless the court decides otherwise.

In certain cases, the participation of defence counsel is mandatory, and in cases concerning the most serious punishable acts, the participation of the public prosecutor is also obligatory. The victim may attend the hearing unless this would conflict with the juvenile’s best interests or educational considerations; if present, the victim has the right to ask questions in relation to evidence admitted at their request.

The court may also summon to the hearing persons and representatives of institutions relevant to assessing the juvenile’s situation, including the probation officer, school representatives, institutional staff, a family assistant or a foster care coordinator. Evidence may also be taken by reading records and documents, and—where necessary—by playing recordings of interviews.

The proceedings conclude with a decision, in which the court determines whether the juvenile demonstrates manifestations of demoralisation or has committed a punishable act, and then rules on the application of appropriate statutory measures.

In the course of the proceedings, the court may also decide to transfer the case in justified circumstances. First, with the consent of the juvenile, the court may transfer the case to the school attended by the juvenile or to a social organisation (including a non-governmental organisation), where it finds that the educational measures available there are sufficient. The



entity to which the case is transferred must inform the court of the actions taken and their effects at least every six months, and immediately in the event of ineffectiveness.

Second, where circumstances arise that may justify holding the juvenile criminally liable under Article 10 § 2 or § 2a of the Criminal Code, the family court orders the transfer of the case to the public prosecutor. From that moment, proceedings are conducted under the Code of Criminal Procedure; the juvenile must have defence counsel, parents or guardians acquire the rights of a party, and pre-trial detention may be applied only where placement in a juvenile shelter would be insufficient. If it subsequently transpires that there are no grounds for such liability, the public prosecutor transfers the case back to the family court. Periods of detention, stay in a police child holding facility, application of interim measures and observation in a medical facility are credited towards any eventual penalty.

Decisions issued in juvenile proceedings are subject to appeal. As a rule, appeals are examined by the regional court sitting in a panel of three judges. A decision may be appealed in whole or in part; however, appeals lodged by the juvenile or their parents or guardians are deemed to be directed against the entire decision, unless they concern only costs. The Act also provides protection against *reformatio in peius* in specified configurations of measures.

The juvenile's participation in the appellate hearing is not, as a rule, mandatory, but the appellate court may order their appearance if it considers this necessary or if requested by a party or defence counsel. The victim may be summoned where their presence is required.

Independently of appeals, the Act provides for complaints against a number of decisions. Parties may lodge complaints with the second-instance court, *inter alia*, against refusal to initiate proceedings, discontinuance, transfer of the case to a school or organisation, transfer to the public prosecutor, observation in a medical facility, and the application or modification of interim measures. Complaints against certain decisions (e.g. ordering detention and placement in a police child holding facility, refusal to appoint defence counsel *ex officio*, refusal of access to the case file) are examined by a different panel of the court of first instance.

The victim is entitled to lodge complaints, *inter alia*, against refusal to initiate proceedings, discontinuance or suspension of proceedings, and—under specified conditions—against refusal of access to the case file or refusal to admit a legal representative.



A separate procedure applies to complaints against detention. A detained juvenile and their parents or guardians may request judicial review of the legality, validity and correctness of the detention. The family court examines such complaints without delay and, where irregularities are identified, notifies the public prosecutor and the superior authority of the body that carried out the detention. In addition, parties and other persons are entitled to lodge complaints against procedural actions infringing their rights, which are also examined by the family court.

10. Are alternative methods of resolving situations available, such as mediation or restorative justice?

There is a possibility to refer the victim and the juvenile perpetrator of an offence to mediation proceedings. This is provided for under Article 57 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles.

The family court may, either on its own initiative or with the consent of the victim and the juvenile, refer the case to mediation. Participation in mediation is voluntary. Consent to participate in mediation is obtained by the mediator or by the family court after explaining to the participants the nature and principles of mediation proceedings and instructing them on the possibility of withdrawing such consent at any time until the conclusion of the mediation proceedings.

Mediation proceedings should aim to instil in the juvenile a sense of responsibility for the consequences of the prohibited act committed, and to facilitate the conclusion of a settlement concerning the repair of the damage caused or compensation for the harm suffered.

The following persons participate in mediation proceedings: the victim, the juvenile, the parents or the parent under whose permanent care the juvenile actually remains, or the juvenile's guardian, as well as the victim's statutory representative or the person under whose permanent care the victim actually remains.

When referring a case to mediation, the family court determines the duration of the mediation proceedings for a period of up to six weeks.

In Poland, there is no statutory term "restorative justice"; however, mediation fulfils a function equivalent to restorative justice mechanisms in practice.



11. Is any assessment of the child carried out prior to the imposition of measures (e.g. assessment of the child’s situation, risks, or violations of rights)? Who conducts such an assessment? Is there a protocol or guidelines?

For the purpose of establishing information concerning the juvenile and their environment, including the juvenile’s personal characteristics and living conditions, behaviour, educational and living circumstances, including the family’s social and economic situation, the course of the juvenile’s education or employment, the manner of spending free time, social contacts, the attitude of the parents or guardians towards the juvenile, educational interventions undertaken, the juvenile’s state of health and addictions, the family court orders a social inquiry to be conducted by a court probation officer.

Where it is necessary to obtain a comprehensive diagnosis of the juvenile’s personality, requiring pedagogical, psychological or medical expertise, and to determine appropriate directions of intervention in relation to the juvenile, the family court requests an opinion from the court-appointed panel of judicial specialists, and—where the juvenile has been placed in a juvenile shelter—from that shelter. The court may also request an opinion from another specialised institution or from an expert or experts.

Where it is necessary to obtain an opinion on the juvenile’s mental health, the family court orders that the juvenile be examined by at least two expert psychiatrists. At the request of the expert psychiatrists, the court appoints an expert or experts of other specialisations to participate in the preparation of the opinion.

12. What rights does the child have in this procedure?

Pursuant to Article 36 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, a juvenile is entitled to the following rights:

1. the right to defence, including the right to make use of the assistance of defence counsel and the right to submit an application for the appointment of defence counsel *ex officio* where the juvenile or their parents or guardians are unable to bear the costs of



remuneration of counsel of choice without prejudice to the necessary maintenance of themselves and their family, or where other special circumstances exist;

2. the right to give explanations or to answer individual questions;
3. the right to refuse to give explanations or to answer individual questions;
4. the right to free assistance of an interpreter, where the juvenile does not have a sufficient command of the Polish language;
5. the right to free assistance of a sign language interpreter.

The implementation of information obligations towards minors in criminal proceedings has been further standardised in executive regulations of the Minister of Justice, in particular in the Regulation of 7 November 2024 (Journal of Laws of 2024, item 1659), which introduces standardised written templates explaining the scope of rights and obligations, as well as the manner and conditions of questioning, for suspects, victims and witnesses who have not attained the age of 18.

The juvenile must be informed of the above rights no later than prior to the first questioning or hearing. Failure to provide such information, or providing incorrect information, may not result in any adverse consequences for the juvenile.

Pursuant to Article 59 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles:

Paragraph 1

“In cases requiring immediate action, where there is a suspicion that a juvenile has manifested signs of demoralisation or has committed a punishable act, the Police or the Border Guard, within the scope of their competence, collect, conduct and secure evidence of manifestations of demoralisation or a punishable act, and, where necessary, detain the juvenile. The provisions of Article 48(3)–(8) and (9)(1)–(3) shall apply to the detention of a juvenile.”

Paragraph 2

“The family court may instruct the Police to carry out specific activities, and in exceptional cases may instruct them to carry out activities within a specified scope.”

Paragraph 3



“Questioning of a juvenile by the Police shall take place in the presence of at least one parent exercising parental authority, a guardian or the juvenile’s defence counsel; where ensuring their presence is impossible in a given case, another close person designated by the juvenile, referred to in Article 115 § 11 of the Criminal Code, or a relative of the juvenile, a representative of the school attended by the juvenile, a family assistant, a foster care coordinator, or a representative of a social organisation, including a non-governmental organisation whose statutory purpose is educational, therapeutic or training work with juveniles, prevention of juvenile demoralisation or assistance in juvenile social reintegration, shall be summoned. A record of the juvenile’s questioning shall be drawn up.”

Paragraph 4

“After carrying out the activities referred to in paragraphs 1 or 2, the Police shall immediately transmit the collected materials to the family court.”

Paragraph 5

“In the collection, conduct and securing of evidence by the Police, the provisions of the Code of Criminal Procedure shall apply mutatis mutandis, subject to the amendments resulting from this Act.”

A juvenile may inform the person conducting the questioning that they do not wish their statutory representative, actual caregiver or the designated adult person to be present during the questioning.

The questioning may also be audio- or video-recorded. If this is the case, the juvenile must be informed of this fact prior to the commencement of the recording.

The questioning is conducted by a prosecutor, police officer or another authorised officer. Defence counsel—an advocate or legal adviser—participates in the questioning. However, if defence counsel, despite being notified, fails to appear, the questioning may nevertheless be conducted, and in such a case it will take place without the participation of defence counsel.

The person conducting the questioning explains to the juvenile their rights and obligations. The juvenile also receives this information in written form. If the juvenile does not understand the information provided, they may request further explanation.



The person conducting the questioning informs the juvenile of the offence of which they are suspected. A charge constitutes a description of the act of which the juvenile is suspected. The juvenile is asked whether they admit to committing the alleged act. The juvenile's response is recorded in the record of questioning.

The person conducting the questioning asks the juvenile whether they wish to give explanations, that is, to describe the events referred to in the charge. The juvenile is not obliged to give explanations; this is their decision and does not require justification. If the juvenile chooses to give explanations, they have the right, in the first place, to make a free and uninterrupted statement concerning the matter to which the questioning relates. Only thereafter may the person conducting the questioning ask questions aimed at supplementing, clarifying or verifying the juvenile's statement.

13. Does the child have the right to refuse the measures or to challenge them before a court?

A juvenile has the right to refuse to give explanations and to refuse to answer questions put to them. The juvenile also has the right to lodge a complaint against detention carried out pursuant to Article 48 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles.

A juvenile may appeal against an imposed educational measure, therapeutic measure or corrective measure. Pursuant to Article 104(1) of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles:

“An appeal to the court of second instance shall lie against decisions of the court of first instance whose subject matter is:

- 1. the application or modification of an educational measure, with the exception of the application of such a measure pursuant to Article 235(3) and Article 237(3);*
- 2. the application of a therapeutic measure;*
- 3. the execution of a corrective measure or the application of an educational measure referred to in Article 7(2) or (5) in respect of a juvenile referred to in Article 15(6)(1), after the juvenile has attained the age of 21;*

4. *the application, in respect of a juvenile released from a correctional facility after attaining the age of 21, of an educational measure referred to in Article 7(2) or (5);*
5. *the application, in respect of a juvenile released from a correctional facility after attaining the age of 24, of an educational measure referred to in Article 7(2) or (5);*
6. *the application or modification of the measure referred to in Article 18(1)."*

14. What happens if the child fails to comply with the obligations resulting from the imposed measures?

Pursuant to Article 153 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles:

"If a juvenile fails to comply with an obligation imposed on them to engage in specified conduct, the family court shall, acting ex officio or upon an application by the probation officer supervising the execution of the educational measure, initiate proceedings to modify the educational measure."

15. May the justice system be involved in such situations? In which cases (e.g. to impose a measure, review it, impose child protection measures)? Which authority is competent (family court, juvenile court, criminal court, etc.)?

Pursuant to Article 52 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, the family court initiates proceedings concerning a juvenile where there is a justified suspicion of circumstances indicating the juvenile's demoralisation or the commission of a punishable act by the juvenile (Article 2 of the Act). Such proceedings are of a protective and educational nature; their purpose is not repression, but an appropriate response tailored to the child's age, level of development and life situation.

Information concerning manifestations of demoralisation or the commission of a punishable act by a juvenile may reach the family court from various sources. The Act imposes a general social duty to react and to notify competent authorities. Any person who becomes aware of such



circumstances, in particular of the commission by a juvenile of a prohibited act, violations of social norms, evasion of compulsory education or the use of psychoactive substances, should counteract these phenomena and, in particular, notify the parents or guardian, the school, the family court, the Police or another competent authority (Article 4(1) and (2) of the Act).

A special duty of notification rests with public institutions, local government units, as well as schools and educational institutions. If, in the course of their activities, they obtain information that a juvenile has committed a prohibited act constituting an offence prosecuted *ex officio* or a fiscal offence, they are obliged to immediately notify the family court or the Police and to take the necessary steps to secure traces and evidence (Article 4(3) of the Act).

In certain less serious cases, the legislator allows for extra-judicial responses. Where manifestations of demoralisation or a punishable act occurred on school premises or in connection with the performance of compulsory education, the school headteacher—with the consent of the juvenile and their parents or guardians—may apply educational interventions such as an admonition, warning, apology to the victim, restoration of the previous state, or the performance of cleaning or maintenance work for the benefit of the school (Article 4(4) of the Act). Similar educational measures may be applied by authorities conducting explanatory proceedings in misdemeanour cases (Article 4(5) of the Act). The application of such measures does not, however, preclude the initiation of proceedings by the family court if this proves necessary.

After initiating proceedings, the family court independently assesses which course of action will be most appropriate in view of the juvenile's best interests. If the court finds that educational interventions available within the school environment or a social organisation are sufficient, it may—with the juvenile's consent—transfer the case to the school attended by the juvenile or to a social organisation to which the juvenile belongs (Article 66(1) of the Act). The entity to which the case is transferred remains under the supervision of the court and is obliged to inform the court about the measures applied and their effectiveness.

At the same time, the family court retains the competence to transfer the case to the public prosecutor where, in the course of the proceedings, circumstances arise that justify holding the juvenile criminally liable under Article 10 § 2 or § 2a of the Criminal Code, i.e. in exceptional cases involving the most serious offences (Article 67(1) of the Act). From the moment the case



is transferred to the public prosecutor, proceedings are conducted in accordance with the Code of Criminal Procedure, while maintaining special procedural safeguards for the juvenile, including the mandatory participation of defence counsel and the preservation of the rights of the parents or guardians as parties to the proceedings.

In summary, the family court remains the principal authority responsible for conducting and coordinating proceedings concerning juveniles. In particular, it may:

- initiate proceedings *ex officio* upon obtaining information about demoralisation or a punishable act;
- rely on information provided by the Police, the public prosecutor, schools, public institutions, social organisations or private individuals, including victims;
- decide on the application of measures provided for in the Act;
- transfer the case to a school or a social organisation where it considers such action sufficient; or
- in exceptional cases, transfer the case to the public prosecutor.

Accordingly, the Polish model of juvenile proceedings is based on flexibility, individualised assessment of the child's situation, and the primacy of the family court as the authority entrusted with safeguarding the juvenile's best interests.

16. What does this procedure look like?

Once a case is transferred by the family court to the public prosecutor pursuant to Article 67 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, the mode of conducting the case changes. From that moment, the proceedings assume the character of criminal proceedings, conducted in accordance with the provisions of the Code of Criminal Procedure, while maintaining special procedural safeguards for the juvenile.

The procedure is as follows:

First, the decision to transfer the case is taken by the family court. This occurs where, in the course of the proceedings conducted before the family court, circumstances arise that may



justify holding the juvenile criminally liable under Article 10 § 2 or § 2a of the Criminal Code, i.e. under the regime of exceptional criminal liability of juveniles. The family court issues a decision in this regard, which may be rendered at a closed session.

From the moment the case is transferred to the public prosecutor, the proceedings before the family court are terminated, and further actions are conducted in accordance with the rules of criminal procedure. This means that the case enters the stage of preparatory proceedings conducted by the public prosecutor (with the participation of the Police), and subsequently—where applicable—judicial proceedings before a criminal court.

From that point onwards, the juvenile must be represented by defence counsel. The participation of an advocate or legal adviser is mandatory and constitutes one of the key procedural safeguards. Where the juvenile or their family fail to appoint counsel of choice, defence counsel must be appointed *ex officio*.

At the same time, the juvenile's parents (or the parent under whose permanent care the juvenile actually remains), or alternatively the juvenile's guardian, acquire the rights of a party to the criminal proceedings. This includes, inter alia, the right to participate in procedural acts, submit evidentiary motions, inspect the case file and lodge remedies, to the extent provided for by law.

In the course of the criminal proceedings, a number of provisions of the Act on Supporting and Rehabilitation of Juveniles continue to apply *mutatis mutandis*, in particular those relating to the hearing and questioning of the juvenile, the collection of information concerning the juvenile, the social inquiry, expert opinions, and the protection of the juvenile's procedural rights. The principle of adapting procedural activities to the juvenile's age, level of development and best interests remains fully applicable.

As regards custodial measures, pre-trial detention of a juvenile may be applied only exceptionally, and solely where placement in a juvenile shelter would be insufficient. This constitutes an important limitation designed to protect juveniles from excessively repressive measures.

Where the case is brought before a criminal court, and the court concludes that, instead of imposing a criminal penalty, it is appropriate to apply educational measures, a therapeutic



measure or a corrective measure to the juvenile, the court may order the application of such measures despite the fact that the proceedings are conducted under the criminal law regime.

Conversely, where, in the course of proceedings conducted by the public prosecutor, new circumstances emerge indicating that there are no grounds for holding the juvenile criminally liable under the exceptional regime, the public prosecutor is obliged to transfer the case back to the family court, where it will continue to be examined in accordance with the rules applicable to juvenile proceedings.

Finally, it should be emphasised that, in the event that a criminal penalty is ultimately imposed, all prior periods of actual deprivation of liberty or isolation are credited towards the penalty, including the juvenile's detention, stay in a police child holding facility, application of interim measures (such as placement in a juvenile shelter), and observation in a medical facility.

17. What rights does the child have in this procedure? Does the child have the right to legal assistance? Does the child have the right to appeal?

Once a case has been transferred by the family court to the public prosecutor, the proceedings concerning the juvenile are conducted in accordance with the provisions of the Code of Criminal Procedure, with due regard to the special safeguards resulting from the Act on Supporting and Rehabilitation of Juveniles. The purpose of this procedure is to ensure a fair trial while simultaneously protecting the juvenile's welfare, rights and psychological development.

The fundamental right of the juvenile is the right to defence, which is exercised in a reinforced manner. The participation of defence counsel is mandatory at every stage of the proceedings. The juvenile has the right to appoint defence counsel of their own choosing; if they fail to do so, they are entitled to defence counsel appointed *ex officio*. Defence counsel participates in interviews, hearings and court sessions and ensures the protection of the juvenile's procedural rights.

The juvenile also has the right to the presence of adults providing support. The parents, or the parent under whose permanent care the juvenile actually remains, or alternatively the juvenile's guardian, have the rights of a party to the proceedings. Importantly, the juvenile may indicate



that they do not wish their statutory representative, actual caregiver or another designated adult to be present during questioning. In such a case, the authority conducting the procedural act should respect this request, provided that it does not infringe the juvenile's best interests or the proper course of the proceedings.

The juvenile has the right to information. Prior to the commencement of questioning, the juvenile is informed—in a manner that is clear and adapted to their age—of their rights and obligations. This information is also provided in written form. Where the juvenile does not understand the content of the information provided, they have the right to request additional explanations. The authority conducting the procedural act also informs the juvenile of the act of which they are suspected (the charge) and explains its meaning.

During questioning, the juvenile enjoys the right to remain silent. They may refuse to give explanations in whole or in part, without being required to provide reasons. If the juvenile decides to give explanations, they are first entitled to make a free and uninterrupted statement, without interruptions or suggestive questioning. Only thereafter may the questioning authority ask questions aimed at supplementing, clarifying or verifying the explanations given.

The juvenile also has the right to a fair and humane questioning. Questioning should take place under conditions ensuring freedom of expression, without pressure, intimidation or repeated questioning concerning the same circumstances. As a rule, repeated questioning of the juvenile regarding the same facts should be avoided. Questioning may be recorded by means of audio or video recording, of which the juvenile must be informed prior to the commencement of recording.

The juvenile has the right to participate in procedural acts, to submit comments and statements, and to respond to evidence taken. They also have the right—through defence counsel—to access the case file and to submit evidentiary motions.

With regard to coercive measures, the juvenile enjoys enhanced protection. Pre-trial detention may be applied only exceptionally, and solely where other measures, including placement in a juvenile shelter, would be insufficient. Any detention is subject to judicial review, and the juvenile as well as their parents or guardians have the right to lodge a complaint against the validity, legality and correctness of the detention.



The juvenile also has the right to challenge procedural decisions, either directly or through defence counsel, in particular decisions concerning interim measures, detention, psychiatric observation or other actions infringing their rights.

All of the above rights serve to ensure that criminal proceedings against a juvenile—being an exceptional measure—are conducted with respect for the juvenile’s dignity, the right to defence, the right to be heard, and the overriding principle of the best interests of the child.

18. In addition to the measures, may the child be offered voluntary assistance (social, psychological, medical)?

Pursuant to Article 21 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles:

“The family court may apply to a competent state institution, local government institution or social organisation, including a non-governmental organisation, to provide the necessary assistance in order to improve the juvenile’s educational, living or health conditions.”

Article 21 of the Act on Supporting and Rehabilitation of Juveniles constitutes a legal basis empowering family courts adjudicating in juvenile cases to apply to various institutions—including state institutions (e.g. the Children’s Health Centre), local government institutions (e.g. a city or municipal office, a community cultural centre, a youth club), as well as social organisations (including non-governmental organisations)—to provide the juvenile’s parents or guardians with the necessary assistance aimed at improving the juvenile’s educational, living or health conditions.

Such action by the court should be undertaken in particular where the court imposes specific obligations on the parents or guardians of the juvenile pursuant to Article 18(1)(1) of the Act, and where the factual findings indicate that the obligated persons may not be able to cope on their own with improving certain conditions, or where they signal that they encounter specific difficulties in this respect.

It should be borne in mind that support provided to parents or guardians with the authority of the court carries particular significance for the effective obtaining of the required assistance, and within a reasonable time frame (K. Grześkowiak, in: *Act on Proceedings in Juvenile Cases...*, ed. A. Krukowski, pp. 56–57).



(See: V. Konarska-Wrzosek, in: P. Górecki, P. Kobes, V. Konarska-Wrzosek, *Supporting and Rehabilitation of Juveniles. Commentary*, Warsaw 2023, Article 21).

19. Is the child heard in this procedure? By whom? At what stage? How many times?

The juvenile is heard by the family court.

Pursuant to Article 60 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles, in proceedings concerning juveniles, the hearing and questioning of the juvenile take place. The hearing and questioning must be conducted under conditions ensuring the juvenile's freedom of expression.

In particular, repeated hearings or questioning of the juvenile concerning the same circumstances, or circumstances already established by other evidence and not giving rise to doubts, should be avoided. Where possible, the hearing and questioning of the juvenile should be recorded by means of audio or video recording equipment.

The juvenile may also be questioned.

Pursuant to Article 59 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles:

Paragraph 1

“In cases requiring immediate action, where there is a suspicion that a juvenile has manifested signs of demoralisation or has committed a punishable act, the Police or the Border Guard, within the scope of their competence, collect, conduct and secure evidence of manifestations of demoralisation or a punishable act and, where necessary, detain the juvenile. The provisions of Article 48(3)–(8) and (9)(1)–(3) shall apply to the detention of a juvenile.”

Paragraph 2

“The family court may instruct the Police to carry out specific activities, and in exceptional cases may instruct them to carry out activities within a specified scope.”

Paragraph 3

“Questioning of a juvenile by the Police shall take place in the presence of at least one parent exercising parental authority, a guardian or the juvenile's defence counsel. Where ensuring



their presence is impossible in a given case, another close person designated by the juvenile, referred to in Article 115 § 11 of the Criminal Code, or a relative of the juvenile, a representative of the school attended by the juvenile, a family assistant, a foster care coordinator, or a representative of a social organisation, including a non-governmental organisation whose statutory purpose is educational, therapeutic or training work with juveniles, prevention of juvenile demoralisation or assistance in juvenile social reintegration, shall be summoned. A record of the juvenile's questioning shall be drawn up.”

20. Are there any protocols or guidelines governing the hearing of a child in such situations?

The Regulation of the Minister of Justice of 31 October 2024 on determining templates of information concerning the course, manner and conditions of questioning suspects and witnesses who have not attained the age of 18 is in force. This Regulation contains a template of information on the course, manner and conditions of questioning a suspect who has not attained the age of 18.

Annex No. 1 to the Regulation constitutes the “*Information on the course, manner and conditions of questioning a suspect who has not attained the age of 18*” (a six-page template), prepared in a form accessible to minors and describing step by step the questioning procedure in preparatory criminal proceedings, conducted pursuant to the provisions of the Code of Criminal Procedure.

This template includes, inter alia:

1. the summons for questioning, including the scope of information it should contain, such as the case reference number, place, date and time of the questioning, as well as additional instructions;
2. indication of persons who may be present during the questioning of a minor suspect (statutory representative, actual caregiver, an adult person designated by the minor), as well as the conditions for excluding their presence, including at the request of the minor or where such presence could adversely affect the proceedings (with reference to Article 171 § 3 of the Code of Criminal Procedure);



3. rules for recording the questioning, including the preparation of a written record, the possibility of audio or video recording, the right to request that statements be accurately reflected in the record, and the right to submit motions for rectification or supplementation (inter alia Articles 143 § 1(2), 147 § 1, 148 and 152 of the Code of Criminal Procedure);
4. identification of participants in the questioning, including the participation of defence counsel and the indication of the consequences of their failure to appear despite proper notification (with reference to Article 301 of the Code of Criminal Procedure);
5. description of the course of questioning, including the obligation to provide information on rights and obligations, presentation of the charge, confirmation of the suspect's right to refuse to give explanations (Article 175 § 1 of the Code of Criminal Procedure), and the prohibition of questions suggesting an answer (Article 171 § 4 of the Code of Criminal Procedure);
6. emphasis on the prohibition of the use of pressure and impermissible methods (Articles 171 §§ 5 and 7 of the Code of Criminal Procedure), as well as a description of final activities, including the right to read the record prior to signing it and to raise objections as to its content (inter alia Article 150 of the Code of Criminal Procedure).

Accordingly, this Regulation serves as a practical informational and safeguard standard for the questioning of minors, standardising the manner in which minors are informed of their rights, the course of procedural acts and the permissible limits of procedural influence exercised by authorities.

In addition, the Regulation of the Minister of Justice of 7 November 2024 on determining templates of written explanations for suspects, victims and witnesses regarding the scope of their rights and obligations and the manner and conditions of questioning, as well as the Regulation of the Minister of Justice of 7 November 2024 on determining templates of written instructions on the rights and obligations of suspects, victims and witnesses, are also in force.

In Poland, alongside binding legal provisions, detailed guidelines and practical materials operate with the aim of ensuring the implementation of the concept of child-friendly justice.



In cooperation with UNICEF, a project entitled “*Implementation of the concept of child-friendly justice and strengthening the rights of victims*” is being carried out. Its objective is to strengthen the justice system so that it more effectively protects children—as witnesses, victims, as well as suspects or accused persons.

As part of this project, in cooperation with the Institute of Forensic Research named after Professor Jan Sehn in Kraków, a series of practical materials entitled “*Child-Friendly Justice*” was developed and published in 2025. These materials constitute guidelines addressed to judges, prosecutors and court experts, describing in a clear and structured manner how to properly and safely work with a child in the course of judicial proceedings.

The series includes, inter alia, the following publications:

- *Questioning of a minor victim-witness in criminal proceedings. Guidelines for judges and prosecutors;*
- *Hearing of a child in civil proceedings. Guidelines for judges;*
- *Methodology of questioning a juvenile. Guidelines for judges and prosecutors;*
- *Methodology of questioning a suspect or accused person who has not attained the age of 18. Guidelines for judges and prosecutors;*
- *Psychological expert opinions in care proceedings concerning persons who have not attained the age of 18. Guidelines for expert psychologists;*
- *Psychological expert opinions in criminal proceedings concerning persons who have not attained the age of 18. Guidelines for expert psychologists.*

These materials contain concrete practical recommendations, including, inter alia:

- how to communicate with a child using clear and simple language;
- how to reduce stress and the child’s sense of threat;
- how to avoid repeated questioning;
- how to adapt questioning techniques to the child’s age and developmental level;
- how to take psychological opinions into account during proceedings.



The publications are available free of charge to judges, prosecutors and court experts and may be ordered via a dedicated form. They function as a practical standard of a soft-law nature, complementing binding legal provisions and supporting the application of procedures in a manner that is genuinely child-friendly.

The project is implemented by the Institute of Forensic Research named after Professor Jan Sehn in Kraków and the Ministry of Justice, in cooperation with the UNICEF Office for Refugee Response in Poland. The Institute of Forensic Research, operating since 1929, plays a key role in supporting the justice system through expert opinions, scientific research, training and educational activities.

21. Are there registers of legal violations committed by children below the age of criminal responsibility? If so, are they taken into account once the child reaches the age of criminal responsibility?

Pursuant to Article 342 of the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles:

Paragraph 1

“Within the framework of supervision exercised over correctional facilities, for the purpose of preventing the demoralisation of juveniles and the commission of punishable acts by them, and of creating conditions for juveniles to return to normal life, the Minister of Justice monitors the effectiveness of the rehabilitation of juveniles placed in correctional facilities.”

Paragraph 2

“In performing the tasks referred to in paragraph 1, the Minister of Justice processes the personal data of juveniles collected in the National Criminal Register with respect to juveniles placed in correctional facilities until the juvenile attains the age of 23, and, where a corrective measure continues to be executed after the juvenile has attained the age of 21, until two years have elapsed from the age up to which the family court ordered the execution of that measure.”

Within the National Criminal Register, a “juvenile criminal records file” is also maintained. This refers to a specific part of the National Criminal Register containing information on



persons who, at the time of committing a prohibited act, were under 18 years of age and were subsequently convicted.

22. In the event of harm, what rights and protective measures does the victim have in relation to the child and the child’s family? Apart from compensation, may the victim express views on the measures applied?

One of the educational measures that the family court may impose on a juvenile is an obligation to repair the damage caused, in whole or in part, to provide compensation for non-material harm, to apologise to the victim, or to refrain from contacting the victim.

When obliging a juvenile to repair the damage caused or to provide compensation for non-material harm, the family court specifies the manner and time limit for the performance of these obligations.

The family court may also oblige the parents or guardian of the juvenile to repair, in whole or in part, the damage caused by the juvenile or to provide compensation for the harm suffered.

The victim is a party to the judicial proceedings and may appoint a legal representative.

In addition, the Regulation of the Minister of Justice of 7 November 2024 on determining templates of written explanations for suspects, victims and witnesses regarding the scope of their rights and obligations and the manner and conditions of questioning, as well as the Regulation of the Minister of Justice of 7 November 2024 on determining templates of written instructions on the rights and obligations of suspects, victims and witnesses, are in force.

23. Are any reforms currently underway in this area?

In December 2023, a Plenipotentiary of the Minister of Justice for Juvenile Matters was appointed. One of the Plenipotentiary’s tasks is to prepare a draft amendment to the Act of 9 June 2022 on Supporting and Rehabilitation of Juveniles. At present, the legislative work has not been made public.



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