



CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY IN
NORWAY: MEASURES, RIGHTS, PROCEDURE, PARTICIPATION
National Report for AIMJF's Comparative and Collaborative Research.

Niños por debajo de la edad de responsabilidad penal en Noruega: 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 Norvège: mesures, droits,
procédure, participation

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

Christian Børge Sørensen¹

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 Norway.

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 Noruega

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 passibles d'application et la procédure adoptée, les droits des enfants et leur participation dans le système de protection et de justice en Norvège.

Introduction

¹ Special Adviser on Human Rights Law, Tribunal Chair, Child Welfare Tribunal, Norway



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 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. general information

1.1. *What is the minimum age of criminal responsibility in your country (the **age of criminal responsibility** is the age below which a child is deemed incapable of having committed a criminal offense, it can also be referred as **age of accountability**, **age of responsibility**, and **age of liability for children and it is different of the age when a person becomes an adult**)?*

In Norway, the minimum age of criminal responsibility is 15 years.

1.2. *Is there more than one minimum age of criminal responsibility? Which one? Is it possible to apply the 'doli incapax rule' in your country (possibility of demonstration that the child is sufficiently mature and capable to understand that the behavior was an offense and therefore could be criminally responsible)?*

In Norway, there is only one age of criminal responsibility.

2. age assessment

2.1. *In case of application of the ‘doli incapax rule’, how is this assessment made? Is there a specific methodology for this evaluation? A protocol on how to evaluate? Who assesses the child? Is the child heard in this procedure? Does the child have legal assistance in this situation? Is it possible for the child to challenge the conclusions of this assessment?*

2.2. *In case of necessity of age assessment (due to a lack of birth registration), how is this assessment made? Is there a procedure? Is the child heard in this procedure? Does the child have legal assistance in this situation? Is it possible for the child to challenge the conclusions of this assessment?*

This question must be directed to the police.

3. police intervention

3.1. *In case a child under the minimum age of criminal responsibility commits an act considered as a crime, is he/she brought to a police station? Is it mandatory to do so? If not, in which situations is it necessary to be brought to the police station?*

3.2. *In case the child is brought to the police station, what is expected from the police to do? What are the legal guarantees for the child in this context? Is it possible, in any circumstance, that the child be imprisoned, even for a very short time? In this case, how long is it possible for the child to be deprived of liberty?*

This question must be directed to the police.

4. measures

4.1. *In case a child below the minimum age of criminal responsibility has committed an act considered as a crime, is it possible to impose any kind of measure? Which one?*

See below.

4.2. *Is it possible to impose an out-of-home placement (such as alternative care, in institution or foster family; in health facilities, for instance)? in which circumstances? For how long?*

Yes. The relevant regulation is the Norwegian Child Welfare Act section 6-2. AI translated to English:

Section 6-2. Decision on placement in a child welfare institution without consent

The Child Welfare Tribunal may decide that a child shall be placed in an institution without the consent of the child or those with parental responsibility, if the child has exhibited serious behavioural problems in one or more of the following ways:

- a. by committing serious or repeated criminal offences*
- b. through persistent problematic use of intoxicating substances*
- c. through other forms of pronounced antisocial behaviour*

The child may be placed for up to four weeks for observation, assessment, and short-term treatment. If a new decision is made, the placement may be extended by up to an additional four weeks.

If the child requires more long-term treatment, the tribunal may decide that the child shall be placed in the institution for up to twelve months. The child welfare service must reassess the decision no later than when the child has been in the institution for six months. In exceptional cases, the tribunal may decide to extend the stay by up to twelve more months. The placement period following an emergency decision under Section 4-4 shall be included in the total placement period under Section 6-2, first and second paragraphs.

The tribunal may only make decisions under the first and second paragraphs if the institution is professionally and materially capable of providing the child with adequate care. The institution must be approved by the Norwegian Directorate for Children, Youth and Family Affairs to receive children based on decisions under this provision. The provision in Section 5-3, second paragraph, applies correspondingly.

Before a decision is made under this provision, it must be assessed whether the child's needs can be met through support measures under Chapter 3.

The child welfare service may choose not to implement the decision if circumstances warrant it. In such cases, the tribunal must be notified. The decision lapses if it is not implemented within six weeks.

5. procedure

5.1. Who imposes such measures?

The Child Welfare Tribunal (CWT). While the CWTs are not part of the ordinary court system, they are considered “tribunals” within the meaning of Article 6 of the European Convention on Human Rights (ECHR).

5.2. Is there a legal procedure for the determination of these measures? What is the nature of these procedures? Can you describe it succinctly?

Proceedings in the CWT are regulated by Chapter 14 of the Norwegian Child Welfare Act. The process is court-like in nature. An ordinary case



begins with a petition from the municipal child welfare service to the regional tribunal.

Both the parents and the child are appointed their own attorney (funded by the government through legal aid). The standard proceedings are oral and typically last one to two days. Written evidence is presented alongside witness testimony, and witnesses may be cross-examined. Both the child and the parents are allowed to give oral statements and to comment on the written evidence and witness testimonies.

The CWT has an increasing focus on ensuring that proceedings are child-friendly.

The decision is issued in writing and may be appealed to the ordinary district court within one month.

The leader of the Child Welfare Service may also **impose emergency measures**, such as placing a child in an institution on a short-term basis. Both the child and the parents have the right to have such measures reviewed by the County Social Welfare Tribunal (CWT). A decision by the CWT in these cases may also be appealed to the ordinary district courts.

5.3. Is it possible to adopt alternative resolution mechanisms in these situations, such as mediation or restorative justice?

If the County Social Welfare Tribunal (CWT) finds the case suitable and all parties give their consent, the case may be handled through a dialogue process. This is a mediation-like procedure in which the parties meet, each represented by their own attorney (at public expense). The dialogue process is regulated by Section 14-14 of the Child Welfare Act, AI-translated:

The chair of the tribunal may offer the parties the opportunity to participate in a dialogue process as an alternative to ordinary proceedings, if the case is deemed suitable for such a process.

The purpose of the dialogue process is to improve communication between the parties and provide them with an opportunity to agree on solutions in the best interests of the child, either as a full or partial resolution of the case.

Participation in the dialogue process requires the consent of the parties. Private parties must be represented by legal counsel. The chair may appoint an expert to assist in the dialogue process.



The chair must ensure that the best interests of the child and the legal safeguards of the private parties are upheld. The chair may allow the parties to test a temporary arrangement for a specified period. The chair may terminate the dialogue process at any time and refer the case to ordinary proceedings. The Ministry may issue regulations on the implementation of dialogue processes, including exceptions to the time limits set out in Chapters 4 and 14.

You should also be aware of the National Mediation Service (Konfliktrådet), which is another body outside the court system. This is a service for people in conflict or after an offence. The police can refer a case to the Mediation Board even if the offender is under the age of 15. However, such cases are not treated as criminal cases but rather as civil cases. Participation is voluntary, and the process is free of charge.

6. assessment

6.1. Is there any kind of assessment of the child for the imposition of such measures (on vulnerabilities, risk, rights violations)? Who assesses the child? Is there a protocol or guideline on how to assess the child? Can you please share it?

The Municipal Child Welfare Service assesses the child's needs and submits an application to Bufdir (The Norwegian Directorate for Children, Youth and Family Affairs) for institutional placement. The referral is forwarded to Bufetat's National Unit for Treatment Measures (NABE), Assessment Division, for target group evaluation. This unit is responsible for assessing and categorizing children based on their specific needs.

However, the CWT ultimately decides whether the proposed institution is adequately equipped, both professionally and materially, to provide appropriate care and support.

7. legal and procedural guarantees

7.1. What are the rights of the child in this procedure (legal and procedural guarantees)?

Yes, described above.

7.2. Does the child have the right to refuse any of these measures? Or to challenge in court any of these measures?

A placement under Section 6-2 of the Child Welfare Act is involuntary. Although the institution is not locked, the Norwegian Supreme Court



considers such a placement to constitute a deprivation of liberty under ECHR article 5.

7.3. What happens if the child does not fulfill the obligations inherent to these measures?

The institution may request assistance from the police to use force in transporting the child to the facility.

See also the Child Welfare Act **Section 10-9. Extended authority to restrict freedom of movement, etc., for children in child welfare institutions (AI translated):**

When a child is placed in a child welfare institution pursuant to Sections 4-4, 6-1, or 6-2, and it is necessary for the purpose of the placement, the institution may:

- a. restrict the child's right to move freely within and outside the institution's premises, including denying the child permission to leave the premises*
- b. lock the door to the institution for the child or require that the child be accompanied by staff outside the institution to implement the measures under point a*
- c. restrict the child's right to receive visitors, including denying visits*
- d. restrict the child's right to use electronic communication devices, including prohibiting their use*
- e. confiscate electronic communication devices if the child does not comply with the institution's decision to prohibit their use under point d*

Decisions to restrict the child's freedom of movement and visits under the first paragraph may be made for up to 14 days at a time.

Decisions to restrict or confiscate electronic communication devices may be made for up to four weeks from the child's arrival at the institution, and thereafter for a maximum of 14 days at a time.

The institution must continuously assess whether the decision should be upheld.

The Ministry may issue regulations on the implementation of decisions under this provision.



8. the role of the justice system

8.1. *Is it possible in your country that the justice system gets involved in these situations? In which situation (vg. to impose the measure or to review it, in case of resistance by the child or his/her family, or to impose some child protection order)? For what purpose? Which branch of the justice system is involved (youth court, family court, child protection court, criminal court...)?*

In addition to the described above:

- the CWT is a specialized towards child protection/welfare cases. The ordinary courts are generalists.
- Decisions to limit personal freedom and movement after the Child Welfare Act section 10-9 are not subject to judicial review (neither in CWT or ordinary courts)

8.2.. *In case of involvement of the justice system, can you briefly describe the procedure?*

See above

8.3.. *What are the rights of the child in this procedure? Does the child have the right to legal assistance? The right to appeal against any kind of decision?*

See above

9. assistance or support

9.1. *Besides the measures imposed to children, are there other kind of assistance available on a voluntary basis (social, psychological, medical)?*

Yes, the child welfare service has a broad range of voluntary measures for both the child and the parents.

10. child participation

10.1. *Is the child heard in this procedure? By whom? At which stage of the procedure?*

Yes, both during the process led by the Child Welfare Service and in hearings before the County Social Welfare Tribunal (CWT) and the courts. In cases under Section 6-2, the child is always considered a party to the case and therefore has the right to participate in the oral proceedings. Very often, the child is heard in a separate meeting with the tribunal, which consists of a tribunal chair, a layperson, and a child expert—typically a psychologist.

10.2. *Is the child heard more than once in this procedure? How many times?*

In ordinary case handling, the child is typically heard once during the proceedings before the CWT. In a dialogue process, however, the child



may be heard multiple times, depending on how many dialogue meetings are held.

10.3. Is there a protocol or guideline on how to hear the child in this situation? Can you please share it?

Yes, the guidelines for Tribunal Chairs is online here: [Våre retningslinjer og veiledere - BARNEVERNENS- OG HELSENEMNDA](#)

- See especially NL-veilederen para 5, 7.4 and 13.8.11 (you can use some form of AI tool for translation)

11. legal implications

11.1. Is there any record of legal infringement committed by children below the age of criminal responsibility? When the child reaches the age of criminal responsibility, are these records taken into consideration?

11.2. In case of damages, what kind of rights and remedies does the victim have regarding the child and the family? Besides financial reparation, does the victim have the possibility to have a say on the measures applied to the child?

This question must be directed to the police and/or the ordinary courts.

12. reforms in progress

12.1. Are there ongoing reforms on this subject?

There is an ongoing project within the CWT aimed at developing child-friendly proceedings, including the establishment of child-friendly facilities.

For the ordinary courts: work on establishing fast-track courts for minors, particularly in response to rising youth crime in urban areas like Oslo.