



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

Niños por debajo de la edad de responsabilidad penal en Macedonia del Norte: 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 Macédoie du Nord :  
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 North Macedonia.

**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 Macedonia del Norte

**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 Macédoie du Nord

## Introduction

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

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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**)?

**The minimum age of criminal responsibility** in the Republic of North Macedonia is regulated by the Law on Justice for Children (Official Gazette No.66/24 of 20 March 2024). The law stipulates that a child who, at the time of committing the act defined by law as a criminal offence or misdemeanor, has not reached the age of 14, cannot be subjected to any sanction prescribed by this law. In other words, the minimum age for criminal responsibility is 14 years.

**The law defines a child at risk up to the age of 14** as any child who, at the time of committing an act defined by law as a criminal offence punishable by a fine or imprisonment of more than three years, or an act defined by law as a misdemeanour, **has reached the age of five but has not yet reached the age of 14.**



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)?

The rule of "**doli incapax**" (incapable of committing a crime) **is not applied** in the Law on Justice for Children. Namely, the law explicitly and clearly prescribes that no sanction may be imposed on a child who has not reached the age of 14. There is no possibility for the public prosecution to prove that the child was sufficiently mature and aware that their actions were unlawful, and the child cannot be held criminally liable.

## 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?

The rule of 'doli incapax' is not applied.

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?

When the age of a person held at a police station cannot be determined with certainty, and there is a suspicion that the person is a child (i.e., under the age of 18), the authorities are obliged to act in accordance with the principle of *in dubio pro minore*—that is, in case of doubt, it shall be presumed that the individual is a minor until proven otherwise. The law provides that a person whose age cannot be reliably established shall be considered a child at risk. This provision is aligned with international standards, including the Convention on the Rights of the Child and the case law of the European Court of Human Rights.

The police are required to treat the person as a child and to ensure the full enjoyment of all rights arising from the Law on Justice for Children.

When a child does not possess identification documents, the Centre for Social Work must be immediately notified. The Centre shall appoint a qualified professional to represent



the best interests of the child. This person may initiate appropriate protection measures, including temporary care placement or accommodation in a child care institution.

There is no explicitly regulated judicial or administrative procedure solely for determining the age of a child for the purposes of criminal proceedings and establishing the child's criminal liability, or whether the child has reached the age of 14 in cases where official documents are lacking. Nevertheless, the child's age must be established if there is any doubt, as the age of 14 is the legal threshold for criminal responsibility. Therefore, if it cannot be established that the child is at least 14 years old, criminal proceedings cannot be initiated.

Methods for determining the age may include an interview with the child, obtaining an opinion from a pediatrician or another medical specialist, conducting a social history assessment by the Social Work Centre, as well as psychological and psychiatric evaluations.

In the Republic of North Macedonia, there is no prescribed procedure for age determination, but there is a recognized need to regulate such a procedure, particularly in the context of establishing criminal responsibility.

Age assessment is most commonly carried out through a multidisciplinary approach, initiated by law enforcement authorities or the Social Work Centre.

### 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?

If the child is caught in the act of committing a criminal offence, they are taken to the police station and it is mandatory according the law. If not caught in the act, the child is summoned through a written notice addressed to their legal representative.

A child who, at the time of committing the act defined by law as a criminal offence, has not reached the age of 14 shall not be registered in the police station's electronic bulletin as detained. Upon detention, the police must immediately inform the parent and the Social Work Centre. If other individuals who are of age for criminal responsibility and subject to court proceedings were also involved in the commission of the offence, the Public Prosecutor must also be notified in addition to the Centre for Social Work.

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?

The provisions of the Law on Justice for Children do not specify an age for the detention of a child in a police station. An analysis of these provisions leads to the conclusion that they apply only to children above the age of 14 who are subject to criminal responsibility.

However, in practice, when a child under the age of 14 is caught committing a misdemeanor against public order and peace or a criminal offence, the child is detained at a police station, and the parent and the Social Work Centre are immediately notified. The law provides that the child may be detained for a maximum of 8 hours, but in practice, the detention of a child under 14 usually lasts between 2 to 4 hours.

Police officers of the Ministry of Internal Affairs detain the child in premises appropriate for the detention of children of that age, which are separate from the premises used for the detention of adults.

A written report is prepared for the detention of a child, in which all relevant information is recorded, including the date and time of the child's detention, the reasons for the detention, the time when the child was informed of their rights, their psychophysical condition at the time of detention, the time of the interview with the child, observations by the officials regarding the presence of visible bodily injuries, and the time when the detention was terminated.

The interview with the child must be conducted in the presence of the child's defence counsel, who protects the child's interests, and in the presence of the parent or guardian, by a police officer trained in interviewing children. If the parent or guardian is unavailable or their identity is unknown, a representative from the Centre for Social Work is invited.

Before the interview with the child begins, the child shall be informed that: they have the right to legal counsel; that the proceedings involving a child are not open to the public; that they have the right to remain silent and not to provide any statements or information; that the parents or guardian or another adult person shall also be informed or provided with the same notice of rights; that they have the right to be accompanied by their parent, guardian, or another adult during the proceedings.

The child must be immediately informed, in a language they understand, of the reasons for their deprivation of liberty and of any suspicion against them of having committed a criminal offence. The child shall also be informed that, during the proceedings, all necessary information will be obtained for the assessment of their psychophysical development and for the evaluation of their personal and family circumstances – i.e., an individual assessment. The child has the right to a medical examination, including medical assistance in case of deprivation of liberty, and the right to submit legal remedies.



At the end of the interview, the report shall be signed by the child, the parent or guardian, and the defence lawyer.

Before the interview, the police officer is obliged to inform the child of the reasons for being summoned and of all facts related to the case which is the subject of the interview, in a manner and language the child understands.

The Ministry of Internal Affairs shall submit a written notification to the Centre for Social Work containing personal data of the child at risk under the age of 14, the parent(s) or guardian, the committed act, and the circumstances under which it was committed. In urgent cases, the notification may be made by phone, with a written notification to follow.

#### 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?

In relation to a child at risk under the age of 14, the legally prescribed measures of assistance and protection shall be applied, provided that they are in the best interest of the child and for the purposes of their upbringing and development, and only if the Centre for Social Work assesses that the situation of risk affects the development of the child's personality and their proper upbringing.

These measures may also be applied to the parent(s) or guardian if they have neglected or abused the exercise of their rights or duties with regard to the protection of the child's personality, rights, and interests.

The measures of assistance and protection are those determined by law in the fields of education, health care, social protection, family matters, and other areas of protection.

In practice, the Centre for Social Work applies the following measures:

A. Professional counselling with the parents and the child  
(This includes working on the parents' capacity for child-rearing, developing an individual plan, and continuously monitoring the parents' engagement with the child.)

B. Referral to counselling services  
(Within the Centre for Social Work or at SOS Children's Village, <https://www.sos-childrensvillages.org/where-we-help/europe/macedonia/skopje>)

C. Referral for assessment to the Institute for Mental Health  
(In cases where there are mental health issues.)



D. Referral to a child psychologist

E. Enhanced supervision of the parents by the Centre

(The parents are monitored with regard to the exercise of their parental rights, including whether they are following the guidance provided by the Centre.)

For this measure, the Centre issues a formal decision against which the parents and the child have the right to appeal to the Ministry of Social Policy, Demography and Youth.

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?

If there is domestic violence in the family or if the child is neglected by the parents, the Domestic Violence Team and the Guardianship Team are also involved. In such cases, the child may be placed in:

- **Emergency foster care** (for a maximum of one month, until a relative or long-term foster family is found);
- **Kindhip foster care;**
- **Foster family care;**
- **Small group home within state institutions** (such as “11 October”, “SOS Children’s Village”, and “25 May”).

A formal decision is issued for these measures, which is delivered to the parent, who has the right to appeal.

## 5. procedure

5.1. Who imposes such measures?

The measures are imposed by the Center for Social Work and are implemented by the family under the supervision of the Center and the small group homes.

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?

In relation to a child at risk under the age of 14, the legally prescribed measures of assistance and protection are applied, which are in the best interest of the child and for their upbringing and development.



Such measures of assistance and protection may only be applied if the Center for Social Work assesses that the risk situation affects the development of the child's personality and their proper upbringing.

Within no more than 15 days from the receipt of the notification or other knowledge, and in cases where the personality, rights, and interests of the child are endangered, within no more than 36 hours, the Center shall summon the child at risk, the parent(s) or guardian, and initiate a confidential procedure to determine the factual circumstances of the specific event or risk situation.

The interview is conducted by a professional from the Center, in designated premises. The standards for arranging these designated premises are prescribed by the Minister of Labour and Social Policy.

In cases where the act committed by a child at risk under the age of 14 is defined by law as a criminal offence punishable by imprisonment of more than five years, or where the offence relates to domestic violence, bodily injury, or when, based on the assessment of the professional from the Center, the personality, rights, and interests of the child are endangered, the presence of a lawyer providing legal assistance is mandatory during the interview. (According to the employees from the Center for Social Work, a lawyer is always present during the interview of a child even for less difficult offence)

The lawyer provides legal assistance in the proceedings before the Center, which includes presence during the interview, submission of a legal opinion, and, depending on the circumstances of the case, participation in meetings for the implementation of the individual plan.

The lawyer is obliged to provide a legal opinion on the case in written form within seven days from the date of the interview. The legal opinion must include, in particular, a description of the act defined as a criminal offence and the factual and legal elements of the case.

Within 30 days from the date of the conducted interview with the parent(s)/guardian and the child at risk, and based on the collected reports and other data available to the Center, the professional prepares and implements an individual plan. In urgent cases, the Center undertakes protection and assistance measures for the child at risk in accordance with the Law on Social Protection and the Law on the Family, even before the individual plan is prepared.

No later than 10 days from the date of adoption of the individual plan, the Center conducts a second interview with the parent(s) or guardian with whom the child at risk resides, in order to directly assess whether the parent(s) or guardian is capable of caring for the child and whether the causes of the child's behaviour and the state of risk can be removed.



The Center informs the parent(s) or guardian about the individual plan to ensure their active participation in the implementation of the protection and assistance measures and simultaneously warns them about the consequences of further non-cooperation with the Centre. The Center meets with the parent(s) or guardian at least once a month, and a record is kept for each meeting.

Changes to the individual plan are made in accordance with the success of the implemented measures of assistance and protection or due to new circumstances. **The measures of assistance and protection may last until the child reaches the age of 18.**

Oversight of the implementation of the Individual Plan is conducted by the Public Institution – Institute for Social Activities.

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

The Law on Justice for Children provides for a mediation procedure, but it has not yet been implemented in practice.

Restorative justice is applied more frequently. Upon the proposal of the Public Prosecutor, the Centre conducts mediation on its premises. The child, the parent or guardian, and the victim/damaged party are invited. If the victim agrees, the child may apologize and compensate for the damage, in the presence of professionals at the Centre.

## 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 risk assessment is carried out by a professional team from the Centre for Social Work, composed of a pedagogue, psychologist, social worker, and legal professional. The professional team prepares an individual program for the assessment.

Specifically, the following are prepared:

- **A risk assessment** to determine whether the child has a predisposition to repeat the behavior by undertaking actions characteristic of a criminal offense; and
- **An individual plan** for measures of assistance and protection of the child.

**There is no official protocol or guideline in the Centre**, but the employees follow manuals and guidelines from UNICEF and the Ministry of Social Policy, Demography



and Youth, which prescribe standard operating procedures (SOPs), guides, and forms. <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.mtsp.gov.mk/content/ИнтернаноВодењеНаСлучаи-Прирачник.pdf>

## 7. legal and procedural guarantees

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

The legal and procedural guarantees are prescribed in the Law on Justice for Children, including the procedure before the Ministry of Internal Affairs / police station, the mandatory presence of a parent/guardian, and the mandatory presence of a defence lawyer.

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

The Centre proposes the measures in the individual plan, which is prepared together with the parents who must give their consent. The child does not have the right to refuse these measures if the Centre considers them necessary. If there is no consent from the child and the parents, the Centre issues a formal decision on Enhanced Parental Supervision by the Centre. The child and the parents have the right to appeal this decision.

The child and the parents do not have the right to challenge the measures before a court, as no judicial procedure is envisaged for children at risk under the age of 14. The entire procedure is conducted before the Centre for Social Work.

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

- If the child fails to fulfil the obligations, another opportunity is given by extending the duration of the measures until a result is achieved.
- If the issue with the implementation of the measures lies with the school, the professionals from the Centre visit the school in order to resolve the problem and ensure the implementation of the measures.
- If, despite these efforts, the child still does not fulfil the obligations, they are placed in a small group home as described in point 4.2 of this questionnaire.

## 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...)?

For children at risk under the age of 14, the procedure is not conducted before a court.

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

For children at risk under the age of 14, the procedure is not conducted before a court.

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?

For children at risk under the age of 14, the procedure is not conducted before a court.

#### 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)?

Without a formal report, upon the request of the parent/guardian, support may be provided at the Center for Social Work by a psychologist, pedagogue, or social worker on a voluntary basis.

#### 10. child participation

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

- The child is interviewed at the police station if detained or summoned.
- The child is interviewed at the Center for Social Work.

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

The child is interviewed at the police station; the law provides that, if necessary, the child may be summoned for an interview at the police station only one more time, in order to ensure the best interest of the child.



To allow the child to explain how the incident occurred, the child is also interviewed at the Center for Social Work, meaning that under the legal provisions the child may be interviewed no more than two to three times during the procedure (in the police station and Center).

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

There is no protocol or guideline for interviewing children under the age of 14.

## 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?

The received reports from the Ministry of Internal Affairs that contain personal data about a child at risk under the age of 14 and the parent(s) or guardian, the committed act and the circumstances under which it was committed, are recorded in the Register of Received Reports for Children at Risk under the Age of 14, which is maintained by the Center for Social Work.

The Register includes data obtained through reports from the Ministry of Internal Affairs, the Public Prosecutor's Office, the school or any other institution where the child at risk under the age of 14 is accommodated and educated, as well as from the parent(s) or guardian, the injured party, and other individuals. These data are kept as classified information in accordance with the regulations governing classified information and the protection of personal data.

These records are kept until the child reaches the age of 18, after which they are destroyed. This means they are retained even after the child turns 14 and reaches the age of criminal responsibility, but these records are not 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?

In the case of damage caused, the child at risk, together with the parent and the victim, come to the Center for Social Work, agree on financial compensation, and sign a record confirming the handover of money or items.



The victim/injured party does not have the opportunity to express an opinion on the measures applied to the child. This is in accordance with, and by analogy to, the Criminal Procedure Code, which applies to adult perpetrators of criminal offenses, considering that the Law on Justice for Children stipulates that the Criminal Procedure Code shall be applied in situations not regulated by the Law on Justice for Children.

## 12. reforms in progress

### 12.1. Are there ongoing reforms on this subject?

Reforms are currently underway involving amendments to the laws on education, healthcare, social work, the Law on the Protection of Children's Rights, and the Family Law, aimed at defining the measures of assistance and protection for this category of children.

Since the Rulebook on the format, content, and manner of maintaining the Register for the application of assistance and protection measures for children at risk was adopted in 2008, UNICEF is working on updating the rulebook.