



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

National Report for AIMJF's Comparative and Collaborative Research.

Niños por debajo de la edad de responsabilidad penal en Japón: 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 au Japon: mesures,
droits, procédure, participation

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

Supreme Court of Japan

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 Japan.

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 Japón

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 au Japon.

Introduction

The Chronicle – AIMJF's Journal on Justice and Children's Rights |/2025

ISSN 2414-6153

<https://chronicle.aimjf.info/>



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)?

Fourteen years old (Penal Code, Article 41).

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)?

Japan does not have multiple minimum ages of criminal responsibility.

2. age assessment

The Chronicle – AIMJF’s Journal on Justice and Children’s Rights 1/2025

ISSN 2414-6153

<https://chronicle.aimjf.info/>



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?

Not applicable

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?

In most instances, if a juvenile has Japanese nationality, a judge determines the juvenile's date of birth almost without question based on documents, such as the family register and residence records, but if a juvenile has foreign nationality, records or statements from a physician, midwife, or close relative, as well as a forensic evaluation, are necessary in rare instances. There is no specific procedure for determining a juvenile's age, but the judge may question the juvenile about his or her age as necessary when determining the disposition. In juvenile court proceedings, a juvenile has the right to appoint an attendant (Juveniles Act, Article 10). Also, in cases involving offenses punishable by the death penalty, life imprisonment, or imprisonment exceeding three years where measure of detention are taken at a juvenile classification home (a facility that accommodates juveniles and conducts psychological and physical evaluation while observing their behavior), an attorney attendant may be appointed if, upon taking into consideration the nature of the case, the presence or absence of the guardian, and other circumstances, it is deemed necessary for an attorney attendant to be involved in the proceedings (Juveniles Act, Article 22-3, Paragraph (2)). A juvenile may file an appeal against a decision on protective 2 measures on the grounds of a serious inaccuracy of facts concerning the juvenile's age or other matter (Juveniles Act, Article 32).

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?



Juveniles under the age of 14 years are not arrested as suspects. During the course of an investigation, however, the police may ask a juvenile under the age of 14 years to voluntarily accompany them to a police station for questioning regarding the circumstances. However, courts are not aware of the circumstances that would lead to an individual being escorted to a police station. In the case of individuals under 14, juvenile cases are brought before a family court through referral by the director of a child consultation center or similar authority.

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?

As stated in the response to 3.1.

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 juvenile court proceedings, the family court may take the following measures: a referral to a director of a child consultation center or similar authority (Juveniles Act, Article 18); a disposition to place the juvenile on probation (Juveniles Act, Article 24, Paragraph (1), Item (i)); a disposition to refer the juvenile to a children's self-reliance support facility (a facility that provides children with poor conduct with intervention in the form of guidance) or foster home (Item (ii) of that provision); or a disposition to refer the juvenile to a juvenile training school (Item (iii) of that provision). A referral to the director of a child consultation center or similar authority is a measure that entrusts child welfare actions to the child consultation center, and subsequently, the director of a child consultation center or similar authority may have the following actions taken: (1) guidance by child welfare officers, commissioned child welfare volunteers, or other such persons; (2) placement with foster parents or guardians; or (3) admission to a foster home, children's self-reliance support facility, or other such facility (Child Welfare Act, Articles 26 and 27). Probation is a community-based disposition that seeks to rehabilitate juveniles by having them remain in their homes while providing them with guidance, supervision,



and support through probation offices (Offender Rehabilitation Act, Article 49, Paragraph (1)). A referral to a children's self-reliance support facility involves admitting juveniles who have committed delinquencies or similar acts to a facility that provides them the necessary guidance and support for their self-reliance (Child Welfare Act, Article 44). A referral to a foster home involves admitting children without a custodian or who have been abused to a facility that provides them with care and protection (Child Welfare Act, Article 41). A referral to a juvenile training school is a disposition that places a juvenile in a close facility for correctional education. For cases involving juveniles under the age of 14, a referral to a juvenile training school may be chosen only when doing so is deemed to be particularly necessary (Juveniles Act, Article 24, Paragraph (1)).

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?

As stated in the response to 4.1. The disposition handed down will vary depending on the case. Similarly, the period of the disposition will also vary from case to case.

5. procedure

5.1. Who imposes such measures?

A judge.

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?

The procedures are the same as in ordinary juvenile court proceedings.

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

In juvenile court proceedings, it is possible to encourage the juvenile to make restitution to the victim or the like, but the law does not specify alternative resolution mechanisms within the hearing procedures.

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?



Family court investigating officers conduct investigations concerning the protective needs of juveniles and report the findings to the judge. Based on the results of these investigations, the judge makes a decision on the disposition. Although there are no formal guidelines or protocols for investigations, the investigating officers who conduct the investigations undergo various training programs to acquire expertise in this area. In addition to training, they also develop such expertise through research and participating in academic conferences.

7. legal and procedural guarantees

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

Juveniles may attend juvenile court proceedings (Rules on Juvenile Hearing and Decision, Article 28, Paragraph (3)). The right of juveniles to remain silent is protected. Juveniles may appoint an attendant (Juveniles Act, Article 10), and in cases involving offenses punishable by the death penalty, life imprisonment, or imprisonment exceeding three years where measure of detention are taken at a juvenile classification home, an attorney attendant may be appointed and its cost may be covered by the government if, upon taking into consideration the nature of the case, the presence or absence of the guardian, and other circumstances, it is deemed necessary for an attorney attendant to be involved in the proceedings (Juveniles Act, Article 22-3, Paragraph (2)). Also, a juvenile may file an appeal against a decision on protective measures if there is a serious inaccuracy of facts or other substantial issues (Juveniles Act, Article 32).

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

The meaning of the “right to refuse” is not entirely clear, but if there is a serious inaccuracy of facts or other substantial issues, the juvenile may file an appeal (Juveniles Act, Article 32).

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

Disciplinary measures may be taken under each disposition. For example, if a juvenile under probation fails to comply with the conditions, the director of the probation office may issue a warning to the juvenile to comply (Offender Rehabilitation Act, Article



67, Paragraph (1)). Furthermore, if the juvenile who received the warning still fails to comply with the conditions and the degree of the failure is deemed serious, the director of the probation office may file an application with the family court for referral to a facility such as a juvenile training school (Paragraph (2) of that provision). Upon receiving the application, the family court will conduct a new hearing, and if it determines that the juvenile's noncompliance is serious and that the improvement and rehabilitation of the juvenile cannot be achieved with the current protective measures, it may refer the juvenile to a facility such as a juvenile training school (Juveniles Act, Article 26-4, Paragraph (1)).

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...)?

If the case is referred by the director of a child consultation center or other such person to the family court, the case is adjudicated in the family court in the same manner as an ordinary juvenile case, and the dispositions are those indicated in the response to 4.1.

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

The procedures are the same as in an ordinary juvenile case.

An overview of the general procedures is set forth below.

1. Referral of the case by the director of a child consultation center or other such person to the family court

2. (Depending on the case) measure of detention (detention in a juvenile classification home)

3. Investigation by a family court investigating officer

4. Hearing

5. Notice of decision



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?

As is the case in ordinary juvenile court proceedings, the right to remain silent, the right to appoint an attendant (Juveniles Act, Article 10), and the right to appeal a protective disposition if there are objections (Juveniles Act, Article 32) are recognized. This also applies to the ability to appoint a court-appointed attendant (Juveniles Act, Article 22-3, Paragraph (2)).

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)?

Support is available on a voluntary basis from Child Welfare Administration Departments, but courts are unaware of the details, so it is not possible to respond to this question. In cases where a juvenile is referred to a family court, during the investigation by family court investigating officers, for the purpose of assessing the need for protection or providing educational guidance, the officers may instruct the child to attend lectures regarding acts considered criminal that the child committed, conduct psychological examinations, provide guidance to doctors and nurses, or coordinate with child guidance centers, schools, medical institutions, or other institutions. None of these has binding force, but they are implemented at the court's discretion, depending on the circumstances of the case.

10. child participation

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

Regarding juveniles referred to a family court, children are heard in the same manner as in ordinary juvenile court proceedings. With respect to hearings, the response is the same as that provided in earlier surveys.

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

The number of times that the hearing of opinions is conducted is not specified by statute, and it depends on the case. For example, in cases where family court investigating officers conduct investigation and hearing, the child may be heard one or more times during each of the investigation and trial, and in cases where a juvenile is sent to a juvenile



classification home for the purpose of a court hearing, the hearing of opinions may be conducted during those procedures.

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

There are no protocols or guidelines concerning investigation, but family court investigating officers undergo a variety of training and acquire expertise in this area. In addition to training, they also develop such expertise through research and participating in academic conferences. The Juveniles Act provides that "Hearing and decision must be conducted cordially and amicably, and encourage the delinquent juvenile to reflect on their delinquency" (Juveniles Act, Article 22, Paragraph (1)), and the judge and other persons who attend the hearing interact with the child in accordance with the rules.

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?

In cases where a juvenile under the age of 14 years commits a criminal act and the case is referred to the family court, a record of the disposition and other proceedings is retained by the family court. If the juvenile later commits a crime and is referred to the family court, these records may be taken into consideration when considering the disposition of the juvenile.

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?

If a minor has inflicted damage on another person but did not have sufficient intellectual capacity to appreciate their own liability for that act, that minor is not liable to compensate for that act. (Civil Code, Article 712). When a person without capacity to assume responsibility is not liable under the relevant provisions and other applicable provisions, the person with the statutory obligation to supervise the person without capacity to assume responsibility is liable to compensate for damage that the person without capacity to assume responsibility has inflicted on a third party; provided, however, that this does not apply if the person who has the obligation to supervise has



not failed to perform that person's obligation or if the damage could not have been avoided even if that person had not failed to perform that person's obligation. (Civil Code, Article 714, Paragraph (1)). A victim cannot seek monetary compensation through juvenile court proceedings, and if a victim wishes to seek monetary compensation through court proceedings, it is necessary to file a separate civil lawsuit or other such legal action. Victims may express their feelings and other opinions on the case in juvenile court proceedings (Juveniles Act, Article 9-2).

12. reforms in progress

12.1. Are there ongoing reforms on this subject?

There are no reforms in progress.