



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

Niños por debajo de la edad de responsabilidad penal en Croacia: 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 Croatie: 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 Croatia.

**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 Croacia.

**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 Croatie.

## **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 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 offence, 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**)?

Criminal responsibility begins at the age of 14. Criminal legislation does not apply to a child who has not reached the age of fourteen at the time of the crime. A minor is a person who, at the time of the commission of the offence, has reached the age of fourteen but has not reached the age of eighteen, and a young adult is a person who, at the time of the commission of the offence, has reached the age of eighteen but has not reached the age of twenty-one. Juvenile courts try criminal cases involving minors and young adults. Children are persons under the age of 18 under criminal law.



Marriage may be entered into by a person who has reached the age of 18. Exceptionally, a court decision may allow a person aged 16 to enter into marriage if it is in their best interest under family law.

Natural person generally acquire legal capacity upon reaching the age of 18. In addition to reaching the age of majority, legal capacity can exceptionally be acquired earlier, by a court decision issued in an out-of-court proceeding in favor of minors who have reached the age of 16. according to the law on obligations.

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)?

No. It is not possible to apply the “doli incapax rule”.

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?

It is not possible in Republic Croatia.

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?

If a person presents themselves as a minor, the court is obliged to accept this until proven otherwise.

In Croatia, children are registered, but if the foreigner is undocumented and the question is whether the child is 14 years old, then documents will be collected first, and then a doctor will determine the child's age at the request of 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?

The police cannot arrest a child under the age of 14.



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?

If a minor does not have a photo ID, the verification is carried out based on a credible statement by the person whose identity has been verified.

The person's identity data is compared with data from the Ministry of Interior's information system.

For the purposes of establishing identity, a minor may be summoned to the police station. Parents or legal guardians must be called immediately, or if they are not available, the social services on duty.

After the verification determines that the person is a minor and there is a need to continue police operations, the parents are immediately informed and invited to come to the police station.

It is not possible to imprison the child under the 14. years.

#### 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?

The social welfare institute implements educational measures for children with behavioral problems (behavioral problems can be critical behaviors, behavioral difficulties, and behavioral disorders).

Also, Social welfare institutions undertake family-legal protection measures, which include referring the child to the observation/diagnostic department of the Community Service Center. If behavioral disorders are identified, the social welfare institution submits a proposal to the family court for the separation of the child from the family. If a field visit by the social services establishes harmful conditions for the child, the child is immediately separated from the family.

The police are obliged to inform the competent state attorney, who dismisses the criminal complaint and informs social welfare, which takes action to protect the child under family law.



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?

Measures to protect the rights of the child are adopted as urgent measures by social welfare, while more permanent measures are adopted by the court upon proposal.

Children are placed in social welfare institutions or foster families if harmful influences from their primary community are determined. A child's placement may last until they reach the age of majority. If the social welfare measure is related to education, then for as long as the education lasts.

According to the Family Law, the protective measure of entrusting a child with behavioral problems is issued for a period of 1 year, which can be extended again, without limitation, until the child reaches the age of majority.

5. procedure

5.1. Who imposes such measures?

District Court, Family Department

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

In order to protect the personal rights and well-being of the child, the court may order:

1. temporary entrustment of the child to another person, a foster family or a social welfare institution
2. prohibition of approaching the child
3. deprivation of the right to reside with the child and entrusting the daily care of the child to another person, a foster family or a social welfare institution
4. entrustment of a child with behavioral problems to a foster family or a social welfare institution for assistance in upbringing and
5. deprivation of the right to parental care.

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

No

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?

There are several Community Service Centers in the Republic of Croatia. The Center's activity is to provide social welfare services outside the family to meet the social protection needs of children (aged 7 to 14) and youth (aged 14 to 26) who exhibit behavioral problems.

As part of their work and professional assessment, which is carried out by subspecialized experts in the Diagnostic Department (neurologist, child and adolescent psychiatrist, psychologist, social pedagogue, social worker), the Centers also provide the following social services:

**Counseling** – for children and young adults with behavioral problems, for families that need professional help or other support due to disrupted relationships or other unfavorable circumstances, for unaccompanied children who find themselves outside their place of residence, and for foreign children who find themselves on the territory of the Republic of Croatia without the supervision of their parents or another adult.

**Professional assessment** – for an early and preschool child with a developmental deviation or developmental risk and a child with developmental difficulties or a person with a disability, for the purpose of referral to an early developmental support service or psychosocial support.

**Psychosocial counseling** – for a child and a young adult with behavioral problems, a family that needs professional help or other support due to disrupted relationships or other unfavorable circumstances

**Social mentoring** – to a beneficiary whose right to accommodation or organized housing service has expired, to a young adult with behavioral problems.  
Psychosocial support

**Residence** – to a child and a young adult with behavioral problems from the age of 7 to the age of 21 (in an institution and half-day stay in elementary schools in the City of Zagreb and Zagreb County).

**Organized housing** – to a child and a young adult with behavioral problems from the age of 7, an unaccompanied child who finds himself outside his place of residence, a foreign child who finds himself on the territory of the Republic of Croatia without the supervision of a parent or other adult, a person who was a beneficiary of the right to accommodation or organized housing service, and who needs to be provided with housing for as long as the need exists, and no longer than until the age of 26

**Accommodation** – to a child and a young adult with behavioral problems from the age of 7, an unaccompanied child who finds himself outside his place of residence, a foreign



child who finds himself on the territory of the Republic of Croatia without the supervision of a parent or other adult.

Pursuant to Article 360, paragraph 7 of the Family Act (Official Gazette, No. 103/15), the Deputy Prime Minister of the Republic of Croatia and Minister of Social Policy and Youth hereby issues rules on the method of obtaining the opinion of a child (Official Gazette No. 123/15)

#### 7. legal and procedural guarantees

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

Entrustment of a child with behavioral problems for assistance in upbringing  
Prerequisites for determining a measure

#### Article 164. Act of Family Courts

(1) In an extra-judicial proceeding, the court shall, due to the child's behavior that seriously endangers his or her rights and interests, as well as the rights and interests of family members or other persons, issue a decision on entrusting a child with behavioral problems to a social welfare institution or a foster family for assistance in upbringing.

(2) The court shall issue a decision when the parents or other persons who care for the child are largely neglecting the upbringing of the child or are unable to properly raise him or her, if a change in the behavior of the child and the parents cannot be achieved by any other milder measure.

The child is required to be represented in this procedure by a special guardian from the Center for Special Guardianship, and it is mandatory to inform the child about the procedure and allow him or her to express an opinion, which the court will take into account if it is in the best interests of the child.

Information about the case should be conveyed to the child primarily by his/her special guardian, who will conduct an interview with him/her.

The interview and possible more detailed processing will probably be conducted by a professional social welfare team before submitting the proposal.

It is possible to determine that the processing and interview with the child can also be carried out by a professional associate of the court - a psychologist, and possibly by another adequate institution.

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



The child is a party in all court proceedings in which his or her rights and interests are decided.

In matters in which decisions are made about the personal rights and interests of a child, the court shall, at the request of the child, by a decision allow a child who has reached the age of fourteen to state facts, propose evidence, submit legal remedies and take other actions in that proceeding if he or she is capable of understanding the meaning and legal consequences of those actions.

If the child is under 14 years of age, the legal guardian performs procedural actions for him/her. Social welfare also represents the interests of the child, and the court assesses the best interests of the child.

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

The measure of entrusting a child with behavioral problems shall be determined for a period of one year.

In particularly justified cases, the court may extend the duration of this measure in non-contentious proceedings at the proposal of the child, parents, the Croatian Institute for Social Work or the State Attorney for Youth.

The Croatian Institute for Social Work shall submit a final report on the child to the court no later than thirty days before the expiry of the period.

The court may, in non-contentious proceedings at the proposal of the Croatian Institute for Social Work or other persons terminate the measure of entrusting a child with behavioral problems for the purpose of assistance in upbringing and before the expiry of the period according to the report on the child and the parents, the reasons for which the measure was determined cease to exist.

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...)?

Family department in District Courts for civil matters–

The decision to entrust a child with behavioral problems to a social welfare institution or foster family for the purpose of raising them is made by the court in an extra-judicial



procedure upon the proposal of the Croatian Institute for Social Work, the State Attorney for Youth, the child or the parent.

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

The decision to entrust a child with behavioral problems to a social welfare institution or foster family for the purpose of helping with their upbringing shall be made by the court in an extra-judicial proceeding (Family judge) upon the proposal of the Croatian Institute for Social Work, or the State Attorney for Youth, or the child, or the parents.

When the Croatian Institute for Social Work initiates the proceeding, it shall be obliged to attach an expert assessment of the family and the child and a proposal for the placement of the child to the proposal.

If one of the others listed above (very rarely) initiates this procedure, social welfare will certainly participate in it and submit its findings and opinion with a proposal.

In this procedure, the court appoints a special guardian for the child who represents him during the procedure.

The child will be personally informed about the procedure and will be allowed to express his opinion in accordance with his age and maturity, the law does not specify an age limit.

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?

The child is a party in the proceedings. The child has the right to legal assistance as legal guardian. He or his guardian can appeal against the decision of the family 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)?

Social welfare institutions provide psychosocial counseling and psychosocial support services. In addition, there are a number of non-governmental organizations that also provide individual and group work services with children and their families, depending on the specific needs of the beneficiaries.

#### 10. child participation

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



In proceedings in which the personal and property rights and interests of a child are decided, the court shall allow the child to express his or her opinion, unless the child objects to this.

The court shall allow the child to express his or her opinion in an appropriate place and in the presence of an expert, if it deems this necessary in view of the circumstances of the case.

The law does not stipulate at what point the interview with the child will be conducted, but these measures are adopted in an extra-judicial procedure that is less formal and faster than a civil procedure; it must certainly be before the end of the procedure.

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

The child in these proceedings is not heard as a party, although he is a party to the proceedings, but rather an interview is conducted with him.

In the rules, even before the initiation of court proceedings, as part of an expert assessment, the interview is conducted with the child by an expert team of the social welfare consisting of a psychologist, social worker and lawyer.

After the initiation of the proceedings, the child's special guardian will conduct an interview with him, the judge will very rarely personally interview the child, and even less often, the interview with the child will be conducted by an expert associate of the court - a psychologist.

It is also possible to use data from an interview conducted with the child by an institution (Polyclinic or similar).

The rule is that no more than one interview is conducted with the child, exceptionally (due to the passage of time or changed circumstances that occurred during the proceedings) an additional interview is usually conducted (when necessary, it is also assessed who is the most adequate person to conduct that interview – a special guardian, a court psychologist or some other professional).

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

The minister responsible for social welfare affairs is obliged by family law to prescribe in protocol the method of obtaining the child's opinion.

Regulations on the method of obtaining the opinion of the child (Official Gazette 123/2015) [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_11\\_123\\_2348.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_11_123_2348.html)



## 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?

No there is no record. But the social welfare has that in the files and is obliged to inform the court or prosecutor about the minor's previous behavior if criminal proceedings are initiated when the minor reaches the age of 14.

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?

The injured party can recover from the parents or institution if they prove that the minor's behavior was due to a failure to educate and care for them. The injured party cannot influence the court's decision.

## 12. reforms in progress

12.1. Are there ongoing reforms on this subject?

The Ministry of Justice is preparing an Ordinance on the education of family judges, which should also include second-instance judges, and a decision may also be made on the necessary specialization of all judges who are family judges as well as second-instance judges.