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### SECURITY IMPLEMENTATION FACETS: PECULIARITIES OF EXECUTION OF THE SENTENCE OF IMPRISONMENT IN RESPECT OF CONVICTED MINORS

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**Abstract.** Consequently, as a result of implemented criminal policy liberalization in the last few years the number of convicts in Latvia has fallen sharply. Despite the fact that the range of the criminal punishment applied for adults and minors does not have a significant difference, the sharp decline in proportion of imprisonment can be explained by compulsory education measures and by forced labor, which are broadly used as criminal punishment in legal procedure of convicted minors. After conducting the analysis of criminal offences committed by minors, it can be concluded that the large amount of these criminal offences are property-related criminal offences, i.e. theft and robbery. However, the amount of violent criminal offences committed by minors, which are directed against human life and health, i.e. infliction of great bodily injuries, smurders, etc., increases with every year. The analysis of the components of crime of the criminal offenses committed by minors shows that the criminal offenses committed by minors are becoming more aggressive, more brutal and better planed, which are often directly or indirectly related to alcohol, psychotropic or narcotic substance abuse or domestic violence. This article identifies and analyses the results of the conducted study on peculiarities of execution of the sentence of imprisonment in respect of convicted minors in Latvia. This study examines the peculiarities of execution of the sentence of imprisonment in respect of convicted minors, identifies specific issues and suggests possible solutions. International standards provide that minor prisoners while being in a closed prison environment are defenseless and are at particular risk; therefore, the study obtains the status of vitally important topicality. Based on the study there has been developed a series of recommendations for the staff (of places of confinement) working with minor prisoners, as well as pointed out the necessity to make amendments to the norms of The Sentence Execution Code of Latvia.

**Keywords:** security, imprisonment, execution of the sentence, minors, reintegration, human rights

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**JEL Classifications:** K1, K14, N43

## 1. Introduction

Security of countries depends on many factors, among which enforcement of law plays important role (Bai-kovs, Zariņš 2013; Giriūnas, Mackevičius 2014; Caurkubule, Rubanovskis 2014; Tvaronavičienė, Grybaitė 2012; Białoskórski 2012; Lankauskienė, Tvaronavičienė 2012; Teivans-Treinovskis, Jefimovs 2012; Vosylius *et al.* 2013; Šileika, Bekerytė 2013; Račkauskas, Liesionis 2013; Vasiliūnaitė 2014).

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) *puts an emphasis on the fact that an adolescent is a child or a young person who (in case of offence) according to the relevant legal systems, can be treated differently as compared to adults.* Provisions suggest that in those legal

systems, which recognize the Convention on the age of criminal responsibility, that age shall not be fixed “too low”, taking into account the fact of emotional, mental and intellectual maturity. The paragraph 13.5. of The Beijing Rules stresses the threat of minors to criminalize themselves while being detained pending trial, therefore during the time of custody they should receive care, protection and all types of necessary individual assistance – social, educational, profession related, psychological, medical and physical, which they may require considering their age, gender and personality traits. The paragraph 18.1. of The Beijing Rules recommends: *A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible.*

According to the second part of Section 6 of the Protection of the Rights of the Child Law: *in all activities in regard to a child, irrespective of whether they are carried out by State or local government institutions, public organizations or other natural persons and legal persons, as well as courts and other law enforcement institutions, the ensuring of the rights and interests of the child shall take priority.* The particular nature of the detention of the minors and criminally-remedial condition are determined by the status of the child’s legal subject. The second part of Section 37 of The United Nations Convention on the Rights of the Child provides that *no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.* According to the second principle of the UN Declaration of the Rights of the Child *the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.*

The amount of the minor prisoners in places of confinement of Latvia is rather small, and in recent years, it has fallen significantly. After conducting the analysis of criminal offences committed by minors, it can be concluded that the large amount of these criminal offences are property-related criminal offences, i.e. theft and robbery. However, the amount of violent criminal offences committed by minors, which are directed against human life and health, i.e. infliction of great bodily injuries, murders, etc., increases with every year. The analysis of the components of crime of the criminal offenses committed by minors shows that the criminal offenses committed by minors are becoming more aggressive, more brutal and better planned, which are often directly or indirectly related to alcohol, psychotropic or narcotic substance abuse or domestic violence.

This article identifies and analyses the results of the conducted study on peculiarities of execution of the sentence of imprisonment in respect of convicted minors in Latvia. This study highlights the peculiarities of execution of the sentence of imprisonment in respect of convicted minors, identifies specific issues and suggests possible solutions. International standards provide that minor prisoners while being in a closed prison environment are defenseless and are at particular risk; therefore, the study obtains the status of vitally important topicality. *It is no secret that the crime is closely linked to the social problems and it is also a reflection of the social problems. The people who objectively need help, and who most of the time are unable to solve their own problems are placed in places of confinement. This particularly applies to minor prisoners* (Judins 2005).

The aim of the authors of this study is to conduct the analysis of the existing norms of The Sentence Execution Code of Latvia concerning convicted minors and implementation of these norms in practice, as well as their compliance with generally accepted human rights, international and the Council of Europe norms and standards. Based on the study there have been developed a series of recommendations for the staff (of places of confinement) working with minor prisoners, as well as there has been pointed out the necessity to make amendments to the norms of The Sentence Execution Code of Latvia. The authors suggest that the drawbacks and issues discovered within the framework of this study, as well as proposed solutions, will make a significant contribution to development of the penalty execution theory in Latvia. It will be possible to improve the sentence of imprisonment execution legal framework by using new scientific cognitions stated in this study.

## 2. Minors in Places of Confinement of Latvia

According to the third part of Section 13 of The Sentence Execution Code of Latvia: *persons of legal age who have been sentenced with deprivation of liberty shall serve their sentence in a closed prison, a partly-closed prison or an open prison, or in the isolation sections or the maintenance service of investigation prisons, but male minors so convicted shall serve their sentence in juvenile correctional institutions and female minors – in separate sections of women's prisons which have been arranged as juvenile correctional institutions.* In Latvia, male minors serve their sentence in Cesis correctional institution for juveniles, and female minors serve their sentence in Juvenile Department of Ilguciems Prison. According to paragraph 11.1. of European Prison Rules: *children under the age of 18 years should not be detained in a prison for adults, but in an establishment specially designed for the purpose, and according to paragraph 11.2.: if children are nevertheless exceptionally held in such a prison there shall be special regulations that take account of their status and needs.*

Modern science and practice has shown little evidence that the correctional institutions would give better results. Many of the adverse effects to individuals, which are inevitable in any penitentiary institution environment, cannot be neutralized neither by inner order nor by re-socialization programs. This is particularly true in respect of adolescents, who are vulnerable to negative influence.

The famous German scientist, the professor of University of Berlin, Franz von Liszt already at the beginning of the XIX century has warned about a negative effect of the sentence of imprisonment on adolescents in the context of likelihood of repeat offending: *the earlier a person commits a crime (for which he will be punished by deprivation of liberty), the greater the likelihood of repeat offending, taking into account the fact that prisons are crime factories. The society should not delude itself that the deprivation of liberty educates or reeducates criminals. Such an objective cannot be achieved by applying such method as isolation of individual from society. Isolation of the person from society is always an experience of stressful situation.* (List 2004).

Consequently, as a result of implemented criminal policy liberalization, the number of convicts in Latvia has fallen sharply in the last few years. By the end of 2014, there were 39 minors in juvenile correctional institutions (0,8% of the total amount of prisoners). It should be noted that, for example, the proportion of the minor prisoners in 2002 was 3% of a total amount of imprisoned persons in Latvian prisons. Despite the fact that the range of the implemented criminal punishment for adults and minors does not have a significant difference, the sharp decline in proportion of imprisonment can be explained by compulsory education measures and by forced labor, which are broadly used as criminal punishment in legal procedure of convicted minors.

According to the data of the 2013 public report of the administration of places of confinement, the repeated offences (after execution of the first sentence) are committed by 37,5% of minors. These figures are much higher than for adults. Repeated offences (after execution of the first sentence) are committed by 20, 6% of adults. *The fact of the repeated criminal offences indicates the failure of the state in response to the previously committed criminal offences. It demonstrates that state efforts to achieve the objective of the criminal punishment did not show any results.* (Judins 2011). By conducting statistical analysis of criminal offences, the authors have come to conclusion that after execution of the sentence, the repeat criminal offences are committed by those minor individuals, who (in places of confinement) have faced the traditions of criminal world subculture. According to European Parliament Resolution of 21 June 2007: *juvenile delinquency is inherently more dangerous than adult offending as it affects a particularly vulnerable section of the population during the formative years of personal development, exposing juveniles at a very early stage to the risk of social exclusion and stigmatization. Implementation of the humane criminal policy requires civil society support* (Zahars 2014).

The protection of the children's rights often suffers from state's alleged lack of financial resources. However, such pretense most of the time does not stand up to scrutiny, because children are the future of every country and, therefore, they should have advantage in terms of the available resources. It is in the interests of the state itself. In order to protect children's rights there have been established global (UN), regional (Council of Europe) and national protection mechanisms. Authors strongly agree with the Latvian human rights experts' insight

that *the international children's rights were adopted in 1924, and it should have been a significant event, but unfortunately, this legislative branch did not receive wide support immediately. Although the children's rights began to "breathe" only in 1950s and 1960 of the 20<sup>th</sup> century, they were thoroughly developed only in 1980s, when it was high time to stop asking the question "Does a child have any rights?"; and yet the children's rights are being violated every day in various ways all around the world, because it is so easy to offend a weaker person. In view of such situation, public authorities have a special responsibility to create a law and institutional framework that would be able to help and protect a child.* (Ziemele 2000).

### **3. Settlement via Mediation**

Since 2003, a settlement via mediation has become quite popular. Section 1 of the State Probation Service Law defines the term of mediation as follows: *a process of negotiations in which the victim and probation client shall participate and in which the help of a mediator shall be used, in order to rectify the consequences of a criminal offence and to reach a settlement between a victim and a probation client.*

The settlement is based on the idea of restoration of justice, which in many parts of the world is used as a way to reduce or to eliminate the harm caused by a criminal offence. The criminal offence is not viewed as offence against society, but rather as conflict between members of society. This approach seeks to provide the parties the opportunity to discuss the consequences of the criminal offence, in order to minimize its impact on their lives in the future. The particular importance in the process of settlement has the participation of the young people, because the meeting with a victim is an effective behavioral modification tool, which can prevent repetition of the criminal offence. Participation in the process of settlement gives the young people the opportunity to assess the consequences of their behavior and to take responsibility for their actions. A settlement helps the victim to maintain a neutral relationship with the offender, which generally contributes to social stability and security. *The desired result of mediation is the so-called win-win solution, which satisfies both parties, and which has been unanimously formulated by both parties* (Trosens, Vanaga 2006) – this way the experts of this field explain the positive aspects of mediation.

It should be reminded that the concept and experience of restorative justice has already been known from antique times, but it was forgotten at the final phase of medieval times, during the establishment of the official justice system, which put offender's responsibility in front of the king or lord, and later in front of the state, unduly neglecting the interests of the victim and compensatory mechanisms. *A major part in the revival of the concept of restorative justice play women's movements, also peace, and social justice movements* (Harris 1993). *Restorative justice in cases of minors is based not only on its effectiveness, but also by recognition of the fact of absence of appropriate sanctions in the criminal punishment paradigm, inability to find individualized approach to each offender, as well as the remoteness of these models from the victim, offender and society problems* (Christie 1982). The majority of the world-renowned scientists (Howard Zehr, Nils Christie, Daniel Van Ness, etc.) have recognized the crisis of modern juvenile justice and encourage to introduce the model of the restorative justice more actively. American scientist Leslie Wilkins rightly considers that *nowadays everyone recognizes the fact that the crime problem should not be reduced to the offender's problem, because thus we are unduly narrowing comprehensive problem-solving capabilities* (Wilkins 1991). Howard Zerh, the British scientist, one of the founders of the idea of restorative justice, in his turn believes that the concept of crime should be looked at from a different perspective, and that it is necessary to develop new principles in rational search for solution. *Security and respect of human dignity should go hand in hand. Threats, needs and obligations should be viewed by taking into account their interconnection, and these issues need to be addressed in the most rational way possible* (Zehr 2002).

### **4. Involvement of Convicts in Education Programs**

According to the seventh principle of the UN Declaration of the Rights of the Child: *the child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education, which will promote his general culture and enable him, on a basis of equal opportunity, to develop*

*his abilities, his individual judgment, and his sense of moral and social responsibility, and to become a useful member of society. The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavor to promote the enjoyment of this right. According to paragraph 28.3. of European Prison Rules: particular attention shall be paid to the education of young prisoners and those with special needs.*

According to the first part of Section 62 of The Sentence Execution Code of Latvia: *training shall be ensured within the scope of resocialization at the deprivation of liberty institution in order to ensure that convicted young persons may acquire general education, and according to the second part of this section, general education of convicted persons sentenced with deprivation of liberty shall be stimulated and taken into account when determining their resocialization level.*

According to the seventh part of Section 50.7. of The Sentence Execution Code of Latvia: *the education process in juvenile correctional institutions shall be approximated to the requirements for general educational institutions and it shall be governed by an instruction approved by the Minister for Justice which has been harmonized with the Minister for Education and Science.*

By conducting the analysis of the norms of The Sentence Execution Code of Latvia, the authors have come to conclusion that the Code does not define the levels of resocialization, as well as there are no instruction approved by Minister of Justice, which is harmonized with the Minister of Education and Science on arrangement of the learning process in correctional institutions for minors. *The education plays the key role in children and adolescents development process. Parents and professionals, including teachers, have a determinative influence in the educational process, while a family constitutes the most important social “protective net” for life in society, because it passes social values to the younger generation, and it accompanies the children on their way to independence and responsibility (Kronberga, Zarmatens 2012).*

## **5. Sentence Execution Regime**

According to the Section 42 of The Sentence Execution Code of Latvia, in deprivation of liberty institutions there are determined and strictly regulated internal procedures, which provide for: *procedures for receiving convicted persons in deprivation of liberty institutions; regulations regarding the behavior of convicted persons during work and rest; a list of work and trades in which it is prohibited to employ convicted persons; a list and the number of objects and possessions which they can keep in their possession; procedures for removal of objects prohibited for use; regulations for inspections and meetings; regulations by which consignments, parcels, printed matter and correspondence for convicted persons shall be accepted and issued, and a list and the number of food products and basic necessity goods which are permitted to be sold to convicted persons. According to paragraph 25.1. of European Prison Rule: the regime provided for all prisoners shall offer a balanced programme of activities, and according to paragraph 25.3.: this regime shall also provide for the welfare needs of prisoners. The regime of execution of the sentence of imprisonment must serve to ensure the resocialization process (Stivrenieks 2013).*

According to the third part of Section 50.7 of The Sentence Execution Code of Latvia: *according to a decision of the administrative committee of a deprivation of liberty institution, convicted minors who have attained eighteen years of age may be transferred to deprivation of liberty institutions for adult convicted persons, if the behavior of the convicted person rules out the possibility of leaving him or her in a juvenile correctional institution or releasing him or her from the serving of sentence before the end of the term. In such a case, the convicted person shall be transferred to the highest level of a partly-closed prison, and according to the fourth part of this Section, in order to strengthen the results of resocialization and provide the possibility of acquiring a general education or vocational preparedness, convicted persons who have attained eighteen years of age may, according to a decision of the administrative committee of a deprivation of liberty institution, be left in a juvenile correctional institution until the end of the academic year or the end of the sentence term, but not longer than until they attain twenty-one years of age. In exceptional cases, with a decision of*

*the administrative committee, the convicted person who has attained twenty-one years of age may be left in the juvenile correctional institution until the end of the academic year. The best investment in prevention of crimes committed by minors should be improvement of the educational and social field and implementation of youth policy (Zahars 2003).*

According to the fifth part of Section 50.7 of The Sentence Execution Code of Latvia: *the regime, working conditions, standards for food, financial and living conditions determined for convicted minors shall apply to convicted persons who have attained eighteen years of age and in accordance with Paragraph three of this Section have been left in a juvenile correctional institution. Levels of the sentence serving regime shall not be determined for convicted male minors and convicted female minors.*

By conducting the analysis of Section 50.7 of The Sentence Execution Code of Latvia regarding the regime of execution of sentence of imprisonment in respect of convicted minors, the authors have come to conclusion that the fifth part of Section 50.7 of The Sentence Execution Code of Latvia has an incorrect reference to the third part. In view of the foregoing, the authors suggest to make amendment to the fifth part of Section 50.7 of The Sentence Execution Code of Latvia, and to define this part as follows: *the regime, working conditions, standards for food, financial and living conditions determined for convicted minors shall apply to convicted persons who have attained eighteen years of age and in accordance with Paragraph four of this Section have been left in a juvenile correctional institution. Levels of the sentence-serving regime shall not be determined for convicted male minors and convicted female minors.* The sentence enforcement regime plays a special role in juvenile correctional institutions. Regime and internal procedures for convicts should be provided taking into consideration reasonable supervision, where the supervisory functions are in cooperation with educational, efficient, and friendly relations.

With amendments, which will come into force on February 1, 2015, the norms of The Sentence Execution Code of Latvia provide to read the Section 50.18 in another edition. The Section 50.18 of The Sentence Execution Code of Latvia determines decision-making procedure of the Evaluation Commission. The first part of this Section determines what kind of decisions may adopt the Evaluation Commission with regard to mitigation of the sentence enforcement regime, where, inter alia, paragraph 5 states: *to leave the convicted person, who has attained eighteen years of age be left in a juvenile correctional institution until the end of the academic year or the end of the sentence term, but not longer than until they attain twenty-five years of age;* and the paragraph 6 of this Section provides that *the convicted person who has attained twenty-five years of age may be left in the juvenile correctional institution until the end of the academic year.* The seventh paragraph of the part 1 of the Section 50.18 provides *to transfer the convicted person (who has been mentioned in the Paragraph 5 and 6) from the juvenile correctional institution to the higher level of penal regime of the partly-closed prison.* By conducting correlation of the sentence enforcement regime, provided by norms of The Sentence Execution Code of Latvia, in juvenile correctional institution and in the partly-closed prison, the authors consider that under no circumstances the transferal of the convicted person from the juvenile correctional institution to the partly-closed prison should be considered as mitigation of the sentence enforcement regime. In view of the foregoing, the authors suggest to strike the seventh paragraph of the part 1 of the Section 50.18 of The Sentence Execution Code of Latvia.

The seventh paragraph of the part 1 of the Section 70. of The Sentence Execution Code of Latvia provides *placing convicted persons who are serving their sentence in juvenile correctional institutions in a disciplinary isolation cell for a time period up to ten days and nights.* Based on the above, in connection with committed gross and systematic disciplinary violations, prison administration has the right to place convicted minors into solitary confinement. As well as according to paragraph 4 and 5 of the part 1 of the Section 70. of The Sentence Execution Code of Latvia: *the prohibition to the current telephone call or the prohibition of the current visit* can be applied as disciplinary punishment. In view of the of the foregoing, the authors believe that placing the convicted minors into solitary confinement for a long period of time may have an irreparable psychological impact and traumatize the convicted minor, because the existing regulation allows to place the convicted minors multiple times into solitary confinement. It is not allowed to restrict or prohibit convicted minors from having

contact with the outside world as a form of disciplinary punishment. By denying the convicts the opportunity to communicate with their parents and relatives, the minors may lose useful social contacts. In view of the foregoing, the authors suggest to strike the seventh paragraph of the part 1 of the Section 70. of The Sentence Execution Code of Latvia, and not to apply paragraph 4 and 5 of the part 1 of the Section 70. of The Sentence Execution Code of Latvia in regard to convicted minors.

## 6. The Safety Aspects of Juvenile Correctional Institutions

According to Section 13.<sup>1</sup> of The Sentence Execution Code of Latvia: *the allocation of a convicted person in a specific deprivation of liberty institution shall be determined by the head of the Latvian Prison Administration taking into account medical, security and prevention of crime criteria*, and the first part of the Section 18. provides that *in deprivation of liberty institutions men and women, as well as minors and adults shall be held separately. Convicted persons whose personal characteristics and criminal experience negatively affect other convicted persons or who oppress and exploit other convicted persons shall also be held separately*.

According to paragraph 52.1. of European Prison Rules: *as soon as possible after admission, prisoners shall be assessed to determine whether they pose a safety risk to other prisoners, prison staff or other persons working in or visiting prison or whether they are likely to harm themselves*. In particular, this assessment is relevant in respect of convicted minors. *In a well-managed prison, where prison staff is in close contact with prisoners, and where between staff and prisoners there are positive business relationships, security threat is usually low* (Koil 2002). The second part of Section 15. of the Protection of the Rights of the Child Law provides that *a child has the right to be protected from physical and mental exploitation, from sexual exploitation and seduction, and from any other forms of exploitation, which may in any way harm the child*. Therefore, it is very important for convicted minor (while being in the juvenile correctional institution) to feel safe and to have the opportunity to participate in all resocialization activities; and no one should jeopardize it. It is necessary to provide such technical possibilities, so that the convicted minor would be able to communicate with the staff of place of confinement at any time. *By conducting risk and needs assessment, it is necessary to determine resocialization needs of a convicted person, as well as the risk level of anti-social behavior and repeated criminal offence in the place of confinement* (Zahars, Stivrenieks 2014).

Paragraph 53.1. of European Prison Rules provides that *special high security or safety measures shall only be applied in exceptional circumstances. In most cases, the severity of committed offences is not the reason for the children to be isolated from society. By executing directions of the law, which do not allow any other state's response to the committed offence, most part of the children is punished with deprivation of liberty* (Judins 2011).

## 7. The Staff of the Places of Confinement

International standards and norms provide that prior to implementation of their official duties the staff of places of confinement has to undergo an adequate training in order to execute both general and specific tasks, as well as to pass the final examination. It is also important to ensure that all employees preserve and improve their professional knowledge and skills, during their entire professional life, by attending training courses and professional development courses. According to paragraph 81.3. of European Prison Rules: *staff who are to work with specific groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, etc., shall be given specific training for their specialized work*. The training of staff of places of confinement should include guidance on international and domestic legislation standards in field of human rights, and placing a particular emphasis on The European Convention on Human Rights and The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The third Paragraph of the Section 3 of The United Nations Convention on the Rights of the Child provides that *states Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision*.

The Section 5.<sup>1</sup> of the Protection of the Rights of the Child Law provides the persons who shall require special knowledge in the field of protection of the rights of the child, and the sixth part of this Section provides that an employee of a place of confinement, who works with minors, shall also require the special knowledge in the field of protection of the rights of the child. By conducting the analysis of international and Latvian legal provisions, the authors have come to conclusion that:

- 1) in recent years the staff of educational institutions has not been provided with special training and opportunity to develop their professional skills;
- 2) 20<sup>th</sup> part of the Section 5.<sup>1</sup> of the Protection of the Rights of the Child Law provides that special training in the field of protection of the rights of the child should be provided to *any other person if the rights and legal interests of a child are or may be affected by an administrative decision (particularly administrative act) taken thereby, actual action or performance of work or service duties of another kind*. It should also be provided to the staff of the central administration of the places of confinement, who makes any decisions in respect to convicted minors.

The staff of the places of confinement should understand (when working with convicted minors) that deprivation of liberty is not a punishment, but rather a social inclusion, the acceptance of new challenges, opportunities and methods. *Any profession requires constant improvement of qualification* (Koil 2002). Any officials, who makes any decisions regarding minors, must be able to take responsibility for their actions. Currently, The Sentence Execution Code of Latvia provides that in each place of confinement only the head of the place of confinement shall be responsible for enforcement of the sentence of imprisonment. In view of the above, it is necessary to introduce the reasonable decentralization of power (rights) and delegation of responsibilities.

## 8. Development of Juvenile Justice in Latvia

As previously mentioned, the indications of the crisis of the juvenile justice in the modern legal systems have already been defined in 90s of the 20th century, and there was a road paved towards widespread recognition and enforcement of the Restorative Justice model. In this field there has been obtained a major progress in Australia, New Zealand, Canada and in other countries with Anglo-Saxon legal systems, as well as in Europe, for example Germany, Denmark and the Netherlands. However, according to the well-known American legal expert Dan Van Ness: *the restorative justice method is still being left "on the side of the tracks" in favor of the criminal justice or therapy (rehabilitation) methods. Furthermore, in order for these tasks to become the first-rate tasks, and in order for them to be included into restorative justice system, and also after establishing the offender's guilt, and to allow to involve into legal proceedings the injured party and representatives of society, it is necessary to make radical changes of policy and management priorities in the system of juvenile justice* (Van Ness 2006).

Juvenile justice is the system of legal provisions and state institutions, which has been established in order to deal with cases related to minors. Prevention of the "child offences" is also a part of the juvenile justice. Juvenile justice system works in order to ensure children's rights and legal interests, taking into account the special legal status of a child (Grāvere 2013). The juvenile justice system of Latvia has not yet been established. The applicable range of criminal punishments for adults and minors is practically the same. The main differences are the severity of the applicable penalties, the different criminal punishment enforcement procedure and increasing possibility of application of supervisory actions in regard to convicted minors without isolation from society. There is every reason to say that there has been formed a huge gap between our juvenile justice system, which is currently is under a process of transformation, and a Western culture juvenile justice system with its offender reasonable, safe, accountability promoting and humane control. The authors of the article consider the reconciliation via mediator, which is increasingly being used in trials related to offences committed by minors, as a strong bridge over the gap, which still exists between the traditional criminal justice with respect to offences committed by minors and the sprouts of restorative justice in Latvia.

In view of our present problematic aspect concerning the adequate protection of children's rights in criminal



justice institutions, it is important to raise the matter of urgent development and adoption of the special juvenile delinquent justice law and creation of juvenile courts, with special emphasis on prevention of offences committed by minors and protection of rights of these individuals. However, due to dogmatic beliefs and deep-seated stereotypes, the above-mentioned measures have not yet gained an adequate support in Latvia and other Baltic countries. The authors show solidarity with Lithuanian scientists' S. Yustickaya, R. Giedryte and A. Mickevich's authoritative opinion, which is based on the research of the theoretical and practical basis in relation to minor offenders and state's reaction to them: *Because the implementation of measures is often only declarative, the planned measures often do not reach the target group of minors. In other words, they fail to provide the preventive effect. This declarative nature of the implementation of measures is the main reason why the recommendations supplied by criminological research are, in fact, inefficient. This may lead to a further negative phenomenon. On the one hand, the public can only see the façade of crime prevention and is unable to see the actual situation, believing that intensive prevention measures for juvenile delinquency are being undertaken and that juvenile delinquency rates are positively affected by these measures. On the other hand, the public also observes any unfavorable trends in criminal and juvenile delinquency statistics and concludes that these measures have no effect. This creates a false impression that crime prevention cannot be effective and that preventative measures do not have any impact on crime. Maybe it is the reason why society more prone to support a strict penal policy* (Justickaja et al. 2014).

Due to issues found in the field of protection of rights of minor offenders, the authors believe that it is necessary to make the appropriate conclusions and to put forward proposals:

- the development of policies and practices for dealing with young offenders is in the wider context of promotion of children's welfare more generally;
- educative or welfare measures are seen to form an appropriate basis for dealing with the majority of young offenders;
- punitive sanctions are to be used only in exceptional circumstances and only for a minority of offenders;
- waiving prosecution or keeping juveniles out of court proceedings, is an appropriate strategy for the majority of young offenders;
- custody is generally used for young offenders only as an “*ultima ratio*” measure;
- there is acceptance of the value of preventive measures though the lack of resources and trained personnel again impedes the development of effective strategies;
- there is a concern to promote the rights of young offenders in the court setting in accordance with the principles enshrined in the UN Convention, Beijing Rules and Riyadh guidelines, and of course with Recommendation No. R(87)20 of the Council of Europe;
- a special juvenile offenders law should be adopted and a special juvenile court should be established.

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