



THE ROLE OF SOCIAL SERVICES IN CRIMINAL PROCEEDING TOWARDS JUVENILE IN CROATIA

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ABSTRACT

One of the elements that differentiates criminal proceedings towards juvenile from regular criminal proceedings is the role of social welfare services. Juvenile delinquency is a broad social phenomenon that requires a comprehensive response from the state and society which includes actions of not only the judiciary but also other state systems, including social welfare. In all European countries, social services have a specific role that varies depending on the system of response to juvenile delinquency in a particular country. According to previous research, in some European countries the social services are an integral part of the juvenile court, while in other countries they operate as a separate and independent organization; in some European countries social services are involved in criminal proceedings towards juvenile from the beginning of criminal proceeding while in other countries they are included much later, after the main hearing. In Croatia social services are separated from the juvenile court and are involved in the criminal proceeding towards juvenile from the beginning. In criminal proceedings towards juvenile in Croatia, juvenile court must collect comprehensive data about juvenile and his or her personal and family circumstances in order to decide about the appropriate juvenile sanction in every case. While collecting information about the juvenile, social welfare workers have to closely cooperate with the juvenile court and their reports often play an important role when deciding about appropriate reaction to committed criminal offence. According to the Youths Courts Act, social welfare bodies participate in proceedings towards juvenile from the first moment that there is a suspicion that the juvenile has committed a criminal offense and even during the phase of execution of juvenile sanctions. The paper will analyse the role of social welfare bodies throughout all phases of criminal proceedings towards juvenile in Croatia in order to determine whether the current legislative framework complies with established standards from different European countries regarding the role of social services in criminal proceedings and whether there is a need to modernize the existing role of social services in Croatian juvenile justice system.

Keywords: Criminal proceeding, Juvenile, Social services, Youth Courts Act

1. INTRODUCTION

Criminal proceedings towards juveniles differ in many respects from regular criminal proceedings. While the goal of regular criminal proceedings is to determine the guilt or innocence of the accused and eventually impose a legal sentence¹, the goal of criminal proceedings towards juveniles is more focused on the resocialisation, protection, education and rehabilitation of the juvenile, in the hope that he or she can return to society as a functional member.² The criminal-political teachings of the sociological school of criminal law at the end of the 19th century held that society must focus on preventing criminal offences by applying measures of protection, care and education in cases of children who show signs of educational neglect or elements of pre-delinquent behaviour. The application of these protective measures spread from private charitable and church organisations to state bodies within the state administration. At the same time, in this period, within the framework of juvenile criminal legislation, the focus increasingly shifted from the criminal offence to the juvenile offender. The aim was no longer to punish the juvenile but to ensure his or her resocialisation. As a result, information about the juvenile, his or her character, family situation, social environment, and education gained increasing importance in the proceedings.³ Subsequently, the movement to form special youth courts developed at the beginning of the 20th century as a result of scientific findings and developments in auxology, biology, psychology and other sciences of human development that confirmed the need to treat juvenile offenders differently from adult offenders.⁴ In those first stages of the development of youth courts, countries adopted different solutions regarding their organisation. Today there are four main ways in which youth courts are organised in a particular country: specialised courts that are spatially and organisationally separate from regular courts, with specialised personnel and support services; youth courts as special departments of specialised courts, e.g. family courts or domestic relations courts; youth courts as special departments (departments, panels) of regular courts of general jurisdiction; and general courts that have jurisdiction in cases involving juveniles.⁵ Juvenile delinquency was seen not only as a legal problem but also as a serious social problem for society that required a broader social response, with the participation of various bodies and services, including the police, the judiciary

¹ Krapac, D., *Kazneno procesno pravo, Prva knjiga: Institucije*, Narodne novine, Zagreb, 2020, p. 4.

² Carić, A., *Kazneni postupak prema maloljetnicima*, Split, 2004, pp. 7-8.

³ Cvjetko, B.; Singer M., *Kaznenopravna odgovornost mladeži u praksi i teoriji*, zagreb, Organizator, 2011, pp. 313-314.

⁴ Carić, A., Kustura, I., *Sudovi za mladež: ustrojstvo, sastav i nadležnost prema Zakonu o sudovima za mladež*, HLJKPP, vol. 16, no. 2, 2009, pp. 858-856.

⁵ *Ibid.*, pp. 859-865.

and relevant social institutions (e.g., schools, social welfare services, civil society organisations).

It became important for the youth court to obtain information about the juvenile's personal and family life in order to make a final decision on the appropriate sanction in each individual case. At the beginning of the development of specialised youth courts, the question arose as to which state bodies and services should be involved in the criminal proceedings to assist the court with their expertise by collecting data about the juvenile's character. Initially, information about the juvenile was collected by questioning witnesses who were considered to have knowledge about the juvenile's life (e.g., family members, school). Later, specialised services began to develop within the judiciary, with specific rights and duties towards juveniles, and were expected to assist the court in collecting information about a juvenile's character.⁶

In many countries, social welfare services have been assigned this new role in criminal proceedings, i.e. providing the youth court with the necessary information about juveniles. Over time, their role has expanded, and social welfare services are now increasingly involved at different stages of criminal proceedings. The importance of the role of social welfare services in proceedings towards juveniles reflects society's aim to achieve a comprehensive response to juvenile delinquency. In Croatia, social welfare services are separate from the judiciary and are involved in criminal proceedings towards juveniles from the outset. According to the Youth Courts Act (hereinafter: YCA),⁷ social welfare services participate in proceedings towards juveniles from the first moment there is a suspicion that the juvenile has committed a criminal offence and continue to be involved during the execution of juvenile sanctions. The aim of this paper is to analyse the role of social welfare services throughout all stages of criminal proceedings towards juveniles in Croatia. In the paper we will compare the role of social welfare services in Croatia with the results of research conducted in 11 EU countries and with the categories of possible roles and connections between social welfare services and the juvenile justice system identified by the aforementioned research.⁸ The aforementioned study was selected as the analytical framework for examining the role of social welfare services in the Croatian juvenile justice system because, during the collection and review of literature, it was identified as the only study that specifically addressed

⁶ Cvjetko, B.; Singer, M.; *op. cit.* note 3, p. 314.

⁷ Youth Courts Act (*Zakon o sudovima za mladež*), Official Gazette nos. 84/11, 143/12, 148/13, 56/15, 126/19.

⁸ For the results and methodology of the research conducted, see: Rap, S. E.; *The participation of social services in youth justice systems in Europe*, European Journal of Social Work, Vol. 18, No. 5, 2015, pp. 675-689.

the connection between social welfare services and juvenile justice systems. The research was comprehensive, conducted between 2005 and 2012, and combined legislative analysis with an examination of practice, encompassing jurisdictions representing different juvenile justice models. The only limitation of the study was the exclusion of Scandinavian countries, where social welfare services play a particularly prominent role in juvenile justice.⁹ That is why this paper analyses the Danish juvenile justice system as a representative of the Scandinavian system. Nevertheless, the study's categorisation of juvenile justice systems according to the role of social welfare services appears unique in the literature and provides a suitable and methodologically sound framework for analysing the Croatian system towards the established criteria. By analysing the role of social welfare services in the Croatian juvenile justice system throughout these defined categories, it will be possible to determine in which group of countries Croatia falls, whether the current legislative framework complies with established standards from different European countries regarding the role of social welfare services in criminal proceedings, and whether there is a need to modernise the existing role of social welfare services during criminal proceedings towards juveniles in Croatia.

2. SOCIAL WELFARE SYSTEM IN THE REPUBLIC OF CROATIA

According to the Constitution of the Republic of Croatia (hereinafter: Constitution), Croatia is a welfare state, and social justice is listed as one of the highest values of the constitutional order and the basis for interpreting the Constitution.¹⁰ The Constitution specifically highlights that the state is obligated to protect children and youth and to create social, cultural, educational, material and other conditions that promote the right to a dignified life.¹¹ Special care should also be provided for socially vulnerable groups, harmed and socially neglected children, as well as juveniles without parents and those who are not cared for by their parents. Everyone has a duty to protect children and vulnerable persons, and a physically and mentally harmed and socially neglected child has the right to special care and education.¹²

In view of the above, it can be concluded that the social aspect, which requires protection and assistance for the most threatened and vulnerable groups in society,

⁹ *Ibid.*, pp. 677-678.

¹⁰ Art. 1 and 3 of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*), Official Gazette nos. 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 76/10, 55/01, 5/14, 85/10.

¹¹ Art. 62 Constitution.

¹² Art. 63 para 5 and Art. 64 para 1 Constitution.

including children without adequate parental care, children with behavioural problems, and children who are in conflict with the law, is strongly emphasised. The welfare state assumes responsibility for ensuring minimum social security for all its citizens by intervening in economic and social life through legislative, executive, supervisory, or other measures for the sake of people's well-being and to achieve a fairer distribution of national income.¹³ Social welfare is an organised activity of the state that implements its social and protective function. Social welfare is provided as a public service and is an activity of special interest for the Republic of Croatia.¹⁴

The social welfare system in Croatia is under the jurisdiction of the Ministry of Labour, Pension System, Family and Social Policy. The *lex generalis* that regulates social welfare activities in Croatia is the Social Welfare Act (hereinafter: SWA).¹⁵ Social welfare is an organised activity of public interest aimed at providing assistance to socially vulnerable persons, as well as persons in unfavourable personal or family circumstances, and includes prevention, assistance, and support to individuals, families and groups, with the aim of improving quality of life, encouraging change and empowering beneficiaries for the purpose of their active inclusion in community life.¹⁶ In the social welfare system, a beneficiary is defined as a person or household that receives compensation, social welfare services or other forms of assistance prescribed by SWA in the social welfare system. Children, as well as young adults, with behavioural problems are listed as beneficiaries of the social welfare system.¹⁷ Social welfare activities are primarily carried out by social welfare institutions, but they may also be carried out by local and regional self-government units, i.e. the City of Zagreb, associations, religious communities and other legal entities, craftsmen and other natural persons who perform social welfare activities, under the conditions and in the manner prescribed by SWA, the regulation governing foster care and other implementing regulations.¹⁸ Since 2023, the activities of the social welfare centre are performed by the Croatian Institute for Social Work, which is a public institution with rights, obligations and responsibilities determined by SWA and its basic act, the statute.

In the last thirty years, the Croatian social welfare system has undergone significant structural and legislative changes, partly as a consequence of the need for modernisation and the creation of an integral legal system after the country gained indepen-

¹³ Učur, Marinko Đ., *Socijalno pravo*, Informator, Zagreb, 2000, pp. 4-5, 42-43.

¹⁴ *Ibid.*, p. 251.

¹⁵ Social Welfare Act (hereinafter: SWA; *Zakon o socijalnoj skrbi*), Official Gazette nos. 18/22, 46/22, 119/22, 71/23, 156/23, 61/25.

¹⁶ Art. 3 SWA.

¹⁷ Art. 15 para 1 and Art. 18 paras 2 and 3 SWA.

¹⁸ Art. 17 para 1 SWA.

dence, and on the other hand, the need to implement the *acquis communautaire* of the EU into the Croatian legal system.¹⁹ The social welfare system, as part of public administration, has also undergone a process of digitalisation, which is particularly important for this system, given that it provides assistance to the most vulnerable members of society.²⁰ The uncertainty of legislative solutions within the social welfare system causes additional stress for workers and can also produce unfavourable outcomes for its users.²¹ The Croatian social welfare system faces numerous challenges in its daily work as it seeks to harmonise compliance with legal provisions and users' needs. Today's social welfare system lacks professional workers, and those within the system struggle with an excessive administrative burden. An additional challenge is posed by frequent legal changes that often lead to uneven treatment between individual centres, create additional stress for workers and often result in ambiguities, inconsistencies and unfavourable outcomes for the end users of social welfare services.²² The social welfare system often touches upon very sensitive areas of an individual's life. In Croatia it is necessary to invest more effort in strengthening the position of the social work profession in society, as well as in encouraging positive changes and stability in the organisation of the social welfare system at all levels. As part of future reforms of the social system, an in-depth analysis of the existing system should be conducted, the opinions and proposals of social workers should be taken into account, and a critical analysis made of the effects that potential changes could have on users and on the social system in general.²³

3. THE ROLE OF THE SOCIAL WELFARE SYSTEM IN JUVENILE JUSTICE ACCORDING TO INTERNATIONAL DOCUMENTS

International documents that address issues related to juvenile justice systems often emphasise that, to achieve the goals of child-friendly justice, it is necessary to involve various professional services and experts in the process of responding to juvenile offenders. The backbone of all proceedings regarding juveniles, and of both formal and informal decisions, which takes precedence over other prin-

¹⁹ Ilijaš, A.; Podobnik, M., *Nestabilnost zakona o socijalnoj skrbi – kako utječe na rad socijalnih radnika u centrima za socijalnu skrb?*, Ljetopis socijalnog rada 25, No. 3, 2018, pp. 428-430, [<https://doi.org/10.3935/ljsr.v25i3.24>] For more on the development of the Croatian social welfare system, see: Šućur, Z., *Socijalna pomoć i usluge socijalne skrbi, u: Socijalna politika Hrvatske* (drugo izdanje), Pravni fakultet Sveučilišta u Zagrebu, Zagreb, 2019, pp. 290 – 291.

²⁰ Đanič Čeko A., Guštin M., *Digitalizacija hrvatske javne uprave s posebnim osvrtom na sustav socijalne skrbi*; Zbornik radova Pravnog fakulteta u Splitu, year 59, no. 4, 2022, pp. 808-821.

²¹ Ilijaš, A.; Podobnik, M., *op. cit.*, note 19, pp. 430-431.

²² *Ibid.*, pp. 429 – 430.

²³ *Ibid.*, pp. 445-446.

ciples, is *the best interests of the child*, proclaimed in Article 3 of the Convention on the Rights of the Child.²⁴ This principle must be taken into consideration in all actions of the competent authorities, including social welfare institutions, while states are obliged to ensure protection and care through appropriate legislative and administrative measures, taking into account the child and the person responsible for him or her.²⁵ In order to achieve the best interests of the child, his or her needs must be considered from different perspectives, and this is also why the provisions of international documents often mention the role of the social welfare system in the treatment of juvenile offenders.

When defining the term “child-friendly” justice, the Guidelines on child-friendly justice (Guidelines)²⁶ state that the scope of child-friendly justice should be broader than the actual justice system and court proceedings, and should include all professionals dealing with children in and outside judicial proceedings, such as the police, social welfare services and mental health services. One of the aims of the Guidelines is to ensure that children’s rights are known and respected by all these professionals.²⁷ Recommendation CoE 20 (2003) also states that the juvenile justice system must adopt a wider approach to tackling youth crime, and should include not only youth courts but also other official authorities or agencies such as the police, the prosecution service, the legal profession, the probation service and penal institutions. All these professional services have to work closely together. Responses to juvenile delinquency should be multidisciplinary and multi-agency in order to have an impact at different levels of society: individual, family, school and community.²⁸ The Beijing Rules also state that juvenile justice should be considered an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles.²⁹

²⁴ Convention on the Rights of the Child (1989); Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989; entry into force 2 September 1990; Available at:

[<https://www.ohchr.org/sites/default/files/crc.pdf>], Accessed on 20 May 2026.; Herceg Pakšić, B., (*Kazneno*)pravni položaj djeteta u sukobu sa zakonom u Republici Hrvatskoj: temeljni obrisi, *Dijete i obitelj u suvremenom društvu*, no. 1, 2024, p. 12.

²⁵ For more on the “best interest of a child”, see: Božićević-Grbić, M.; Roksandić Vidlička, S., *Reforma maloljetničkog kaznenog prava i sudovanja*, Hrvatski ljetopis za kazneno pravo i praksu (Zagreb), Vol. 18, No 2/2011, pp. 680-687.

²⁶ Guidelines and their explanatory memorandum were adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, Available at: [<https://rm.coe.int/16804b2cf3>], Accessed 3 April 2026.

²⁷ Explanatory memorandum rule 31 of the Guidelines, p. 31.

²⁸ Art. 1 of the Recommendation of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice (Adopted by the Committee of Ministers on 24 September 2003 at the 853rd meeting of the Ministers’ Deputies).

²⁹ Rule 1.4 of the UN Beijing Rules; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”). Adopted by General Assembly resolution 40/33 of 29 November 1985.

The role of the social welfare system usually comes into focus during the individual assessment of the juvenile. International documents emphasise that the individual assessment should involve an interdisciplinary approach and bodies from various services, and in many countries this includes social welfare services as well. Before making a final decision regarding juvenile sanctions, all information about the juvenile's background, his or her living circumstances, and the conditions under which the offence was committed has to be properly investigated and presented to the judicial or competent authority. These social or pre-sentence reports are considered crucial, and they have to contain all relevant facts about the juvenile, their social and family background, schooling, career, educational experiences, etc. In many countries social welfare services provide this type of information to the competent authorities, and that is why "adequate social services should be available to deliver social enquiry reports of a qualified nature."³⁰ Directive 2016/800 EU³¹ also states that children who are suspects or accused persons in criminal proceedings have to be individually assessed. The individual assessment must be carried out at the earliest appropriate stage of the proceedings with the involvement of the child, and must take into account the child's character and maturity, the child's economic, social and family background, and any specific vulnerabilities. The Directive states only that the individual assessment has to be carried out by qualified personnel using a multidisciplinary approach and involving, where appropriate, the holder of parental responsibility or another appropriate adult.³²

In some cases, social workers will be involved in criminal proceedings because they will be assigned as an appropriate adult for the juvenile, to ensure that the juvenile is able to participate in and follow the proceedings more easily. During criminal proceedings, it is important to ensure the effective participation of the juvenile as part of the right to a fair trial. "It means that he or she, if necessary with the assistance of, for example, an interpreter, lawyer, social worker or friend, should be able to understand the general thrust of what is said in court."³³ Juveniles and their parents often do not understand the course of criminal proceedings or the content of individual actions carried out during the proceedings. That is why they have to be provided not only with legal aid but also with other types of support to facilitate their participation in the procedure. States must provide such assistance

³⁰ Rule 16 Beijing Rules.

³¹ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings; OJ L 132, 21/05/2016.

³² Art. 7 Directive 2016/800 EU.

³³ European Court of Human Rights (Fourth Section), judgment of 15 June 2004, *S.C. v. UK*, no. 60958/00, paragraph 29. For more information, see: Božićević-Grbić, M.; Roksandić Vidlička, S., *op. cit.*, note 25. p. 692.

free of charge. In some cases, legal assistance may be provided to the juvenile, but in other cases, assistance may also be provided by another service, such as social welfare services. In those situations, social workers must be trained to work with children in conflict with the law and have sufficient knowledge and understanding of the various legal aspects of the juvenile justice process.³⁴ All professionals who are involved in the juvenile justice system have to acquire specialised training that should include knowledge about the adolescents' physical, psychological, mental and social development, as well as the special needs of the most vulnerable children. Their education and training have to be systematic and periodic.³⁵

Guidelines also stipulate that all professionals working with children, including social workers, must undergo training in communication skills, the use of child-friendly language, and improve their knowledge of child psychology. Directive 2016/800 EU also states that member states have to ensure that professionals who are involved in criminal proceedings towards juveniles have specific competence in that field or have effective access to specific training regarding children's rights, appropriate questioning techniques, child psychology and communication in language adapted to children.³⁶

4. POSITION AND ROLE OF SOCIAL WELFARE SERVICES IN THE JUVENILE JUSTICE SYSTEM IN SOME EU COUNTRIES

4.1. Austria

The legal status of juvenile offenders in Austria is regulated by a special law, the Youth Courts Act (*Jugendgerichtsgesetz* 1988, hereinafter: JGG).³⁷ The minimum age of criminal responsibility in Austria is 14, and juveniles are persons from 14 to 18 years of age. Children under the age of 14 years are not criminally liable. When a child who is not criminally liable has committed a criminal offence, he or she will be subject to measures that are regulated in the Federal Child and Youth

³⁴ General Comment no. 10 on Children's Rights in Juvenile Justice (CRC/C/GC/10, 25 April 2007), p. 10.

³⁵ General Comment UN no. 10, p. 13.

³⁶ Para 63 of the Preamble of the Directive 2016/800 EU.

³⁷ Bundesgesetz vom 20. Oktober 1988 über die Rechtspflege bei Straftaten Jugendlicher und junger Erwachsener (Jugendgerichtsgesetz 1988 – JGG), StF: BGBl. Nr. 599/1988, last amendment: BGBl. I Nr. 50/2025, text Available at: [\[https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002825\]](https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002825) StF: BGBl. Nr. 599/1988 (NR: GP XVII RV 486 AB 738 S. 76. BR: AB 3573 S. 507.).

Welfare Act 2013 (Bundes-Kinder und Jugendhilfegesetz 2013, hereinafter: B-KJHG 2013).³⁸

In Austria, in 1928, a special body referred to as the Youth Court Assistance (hereinafter: JGH, *Jugendgerichtshilfe*) was established to provide support to youth courts and prosecutors' offices during criminal proceedings towards juveniles.³⁹ Social workers, psychologists, and educators work in JGH. Their main role is to collect data regarding the juvenile and his or her personal and family situation, which is then submitted in the form of a written or oral report to the youth court or the public prosecutor, in order to assist them in making decisions on imposing pre-trial detention, determining appropriate juvenile sanctions, and preparing individual assessments of the juvenile.⁴⁰ If the report is given orally, then the representative of JGH has to be questioned as a witness before the court.⁴¹ JGG states that, when possible and necessary, JGH must be provided with the necessary facilities and telecommunications equipment free of charge in the courthouse, which means they can be located in the court building.⁴² In their report, they have to provide an overview of the living and family circumstances of a juvenile, including their economic and social background, psychosocial development and level of maturity, as well as all other circumstances that may serve to assess the person and their physical, mental, and emotional characteristics (individual assessment).⁴³ When collecting data about a juvenile for individual assessment, JGH is authorised to summon and question all persons who could provide them with information about the juvenile, and they also have the right to talk to the juvenile directly. Everyone from the criminal police, public prosecutors' offices, courts, and institutions for the education, care, and treatment of juveniles, as well as persons working in these institutions, must provide JGH with the necessary information and grant them access to files and records regarding their role of collecting information about the juvenile.⁴⁴

³⁸ Bruckmüller, K., *Austria*, in: Decker, S.H.; Marteache, N. (eds.), *International Handbook of Juvenile Justice*, Springer, 2017, p. 220.

³⁹ Cvjetko, B., Singer, M.; *op. cit.*, note 3, p. 314.

⁴⁰ § 47 (1) JGG.

⁴¹ § 47 (2) JGG.

⁴² § 47 (3) JGG.

⁴³ All tasks of Juvenile Assistance Services are listed in § 48 JGG.

⁴⁴ § 50 (1) and (2) JGG. Information about juveniles collected by JGH may be sent to other courts, for example, the Family Court, if the data constitutes an essential prerequisite, in a specific case, for those institutions to perform their assigned tasks; otherwise, all collected data must be kept confidential. § 50 (3) JGG.

In cases where a juvenile is in pre-trial detention, the court can instruct the head of the probation office to hold a social network conference with the participation of JGH and the accused juvenile, where they will assess whether, in accordance with the principle of proportionality, there is a possibility of applying a less restrictive measure instead of pre-trial detention.⁴⁵

4.2. Germany

The position of juvenile offenders in Germany is regulated in a very similar way to Austria. Special legislation governs the position of juvenile offenders; the *Jugendgerichtsgesetz* (JGG).⁴⁶ The age of criminal responsibility in Germany is 14, and juveniles are considered persons between 14 and 18 years of age.⁴⁷

In Germany, information about juvenile offenders is collected via Youth Court Assistance Services (hereinafter: JGHS, *Jugendgerichtshilfe*). JGHS was established back in 1923 and consists of special departments or individual employees working in youth offices as administrative bodies in a municipality.⁴⁸ JGHS works in cooperation with *Jugendhilfe im Strafverfahren* (youth assistance in criminal proceedings).⁴⁹ Employees at JGHS are social workers or social pedagogues with at least three years of university education.⁵⁰ JGHS has a dual role during criminal proceedings, on the one hand, it must fulfil purely welfare-oriented tasks (family aid, protection of children in need of care), and on the other hand, it must assist and support the prosecutor and court by providing information about the juvenile's personal and family background for the trial. JGHS is partly responsible for the execution of educational measures.⁵¹

⁴⁵ Pre-trial detention conference § 35a JGG.

⁴⁶ Jugendgerichtsgesetz in der Fassung der Bekanntmachung vom 11. Dezember 1974 (BGBl. I S. 3427), das zuletzt durch Artikel 21 des Gesetzes vom 25. Juni 2021 (BGBl. I S. 2099) geändert worden ist.

⁴⁷ § 3 JGG.

⁴⁸ Cvjetko, B.; Singer, M. *op. cit.*, note 3, p. 314.

⁴⁹ Differences between these two bodies are evident from their names. *Jugendgerichtshilfe* (JGHS) has a clear judicial overtone, while *Jugendhilfe im Strafverfahren* (youth assistance in criminal proceedings) signals an affiliation with the child and youth services system. JGHS focuses more on the criminal aspect regarding the juvenile offender, while YACP focuses more on the educational influence on juveniles, Available at: [<https://www.kinder-jugendhilfe.info/en/tasks-and-fields-of-work/other-tasks/involvement-in-juvenile-court-proceedings>], Accessed 3 April 2026.

⁵⁰ Dünkler, F., *Youth Justice in Germany*, Oxford Handbook Topics in Criminology and Criminal Justice, Oxford University Press, 2015. online edition, Oxford Academic, 2 June 2014, p. 8, Available at: [<https://doi.org/10.1093/oxfordhb/9780199935383.013.68>], Accessed 10 April 2026.

⁵¹ *Ibid.*, p. 8.

The representatives of JGHS during criminal proceedings are treated as a special procedural entity and have specific rights and duties.⁵² Their role in criminal proceedings is mainly regulated by § 38 and § 50 of JGG. By observing German criminal proceedings towards juveniles in general, it is evident that different agencies are involved, especially in the early stages, and that JGHS plays a central role.⁵³ JGHS has to be involved in criminal proceedings towards juveniles from the earliest possible time and during all stages.⁵⁴ Its role is to assist the court by submitting a social report about the juvenile that contains information about the juvenile's character, his or her development and family, as well as social and economic background. In the report, they have to highlight the particular vulnerability of the juvenile and also advise what type of measures should be taken towards the juvenile in the event of a conviction.⁵⁵ Information about the juvenile should be available to the court as soon as possible, and the JGHS representatives who prepared the report is summoned to the main hearing, in which he or she is required to participate.⁵⁶ The representative of JGHS is permitted to speak at the main hearing on request. If the JGHS representative is absent from the hearing, a written report by JGHS may be read out in the main hearing.⁵⁷ In practice many youth welfare departments are heavily overburdened, and in less serious cases a social enquiry report is not submitted and the presence of the JGHS representative at the court hearing is not always guaranteed.⁵⁸

JGHS is included in the mediation, supervision and execution of educational measures and in the process of deciding on pre-trial detention.⁵⁹ There are also some differences in practice regarding the way the local JGHS is organised. Usually, all the aforementioned tasks are provided directly by JGHS and are rarely delegated to other providers such as an independent specialised department in the youth welfare office or its general social welfare services department (*Allgemeiner Sozialer Dienst*, ASD).⁶⁰

⁵² Cvjetko, B., Singer, M.; *op. cit.*, note 3, p. 314.

⁵³ Dünkel, F., *op. cit.*, note 50, pp. 8-9.

⁵⁴ § 37 (6) JGG.

⁵⁵ § 37 (2) JGG.

⁵⁶ If the circumstances regarding juvenile have changed from the initial report in essential aspect, additional research must be conducted and updated report must be sent to the youth public prosecution office, and after the charge has been filed, to the youth court. § 37 (3) and (4) JGG.

⁵⁷ § 50 (3) JGG.

⁵⁸ Dünkel, F., *op. cit.*, note 50, p. 10.

⁵⁹ *Ibid.*

⁶⁰ Web page Kinder-jugendhilfe, Available at: [<https://www.kinder-jugendhilfe.info/en/tasks-and-fields-of-work/other-tasks/involvement-in-juvenile-court-proceedings>], Accessed 15 May 2026.

4.3. Belgium

Belgium has long been described as having one of the most welfare-oriented juvenile justice systems in Europe, but in the last two decades reforms have introduced both a penal and restorative logics into this system, making it more of a hybrid model.⁶¹ Local social welfare services (*jeugdbeschermingscomités*) can intervene and provide help and assistance to juveniles with behavioural problems when the juvenile and his or her family seek help. In cases where they do not voluntarily cooperate with social welfare services, the youth court can order that the family be placed under the supervision of social welfare services.⁶² Social welfare services are involved in different stages of criminal proceedings towards juveniles, and in many cases judicial and social intervention and collaboration are intertwined. For example, during the pre-trial stage, the youth court can impose “provisional measures” on juveniles, placing them under social welfare supervision or in a social welfare institution (private or public) to protect the juvenile and to further familiarise itself with his or her personal and family situation. Social welfare services are also involved in the execution of various juvenile sanctions, such as group conferences where both victim and offender are allowed to invite significant others, and a police officer and social worker can be present.⁶³

Belgium has one of the highest ages of criminal liability in Europe, 18 years, but in some cases juveniles between 16 and 18 years can be transferred to adult court (waiver). In order for the juvenile to be transferred to adult court, he or she has to be charged with a serious criminal offence listed in the respective law: aggravated violent theft, sexual assault (with threats or violence) and battery resulting in death or severe physical injuries, rape, robbery with murder, torture or homicide/murder, or at least one youth protection measure must previously have been imposed on him or her. Before making a decision about the transfer of a juvenile, the court has to gather information about the juvenile’s character by conducting a medical-psychological examination, which can be carried out by a psychiatrist, a psychologist or a multidisciplinary team of experts, and a social enquiry carried out by social workers.⁶⁴ In cases where a juvenile is transferred to adult court, all sanctions can be imposed on him or her including imprisonment.⁶⁵

⁶¹ Dumortier, E.; Christiaens, J.; Nuytiens, A., *Belgium* in: Decker, S.H.; Marteache, N. (eds.), *International Handbook of Juvenile Justice*, Springer, 2014, pp. 241-244.

⁶² *Ibid.*, p. 242.

⁶³ *Ibid.*, p. 251.

⁶⁴ *Ibid.*, pp. 256–257.

⁶⁵ See Youth Protection Act of 1965 from Belgium, Articles 57bis and 125.

4.4. Denmark

It is well known that Scandinavian countries have a different approach to juvenile delinquency compared to other EU countries. None of the Scandinavian countries has, or has ever had, a designated Juvenile Justice System or special a Juvenile Justice Act.⁶⁶ The age of criminal responsibility in all Scandinavian countries is 15.⁶⁷ Scandinavian countries do not have special Youth Courts because the response to juvenile delinquency largely falls under the jurisdiction of social welfare systems, which have to cooperate with the judiciary. For example, the Danish social welfare system is authorised to impose measures on juveniles between 12 and 17 years who are suspected of committing a crime without a prior court decision regarding their guilt. However, if the social welfare services decide to place the child in a secure institution that is under the jurisdiction of the social welfare system, without any consent from the child or the parents, this type of decision must be confirmed by a judge. The duration of this type of confinement is not defined beforehand, and the decision should be based on a holistic assessment of the best interests of the child and is not seen as punishment.⁶⁸

In Denmark, the police can act in relation to children (those below the age of 15) and juveniles (individuals above the age of 15). When a child or juvenile is suspected of committing a criminal offence, they can be questioned by the police. In such situations, the police must inform the parents or a representative of the social welfare system, and at least one of them has to be present during the questioning. The police are always obligated to inform the social welfare system if there is any reason to assume that the child needs support from social welfare.⁶⁹ When a child under the age of 15 has been arrested, the police must notify the social welfare services. In some cases, the child can be handed over directly to the social welfare system and placed in a secure institution. The same rules apply in cases involving juveniles.⁷⁰ When preparing a case for the court, the police and prosecutor must cooperate and collect all relevant information about the juvenile. Social welfare services prepare a report to help the judge make a decision regarding the juvenile in question.⁷¹ In Denmark, as in many EU countries, there is a possibility to

⁶⁶ Storgaard, A., *Denmark*, in: Decker, S.H., Marteache, N. (eds.), *International Handbook of Juvenile Justice*, Springer, 2017, p. 268.

⁶⁷ Scandinavian countries included are Denmark, Finland, Sweden and Norway. See more in Gurda, V., *Starosne granice krivično-pravnog maloljetstva u uporednom pravu*, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 41, No. 3, 2020, pp. 781-802.

⁶⁸ Storgaard, A., *op. cit.*, note 66, p. 270.

⁶⁹ *Ibid.*, p. 274.

⁷⁰ *Ibid.*, p. 275.

⁷¹ *Ibid.* p. 276.

implement different diversion measures in relation to children and juveniles. For example, the prosecutor may decide to withdraw the charges if the juvenile follows the instructions from the social welfare services (diversion), which have to be approved and accepted by the judge. Social welfare services are also responsible for supervising the execution of different juvenile sanctions (they have to monitor whether the child or juvenile has fulfilled their obligations), especially community sanctions, and various sanctions are implemented in social welfare institutions.⁷² Based on the above, it can be concluded that in Denmark social welfare services have more jurisdiction if the child is under 15 years of age, while the court has more jurisdiction in cases involving juveniles over the age of 15.

In 2019, Denmark reformed its judicial system in a way that, to some extent, changed the relationship between the criminal court and social welfare services. A new form of court-like proceedings was introduced which, for the first time, included children below the age of criminal responsibility. This new policy reform, *All actions have consequences*, was introduced with the aim of communicating to children that serious crimes will produce a quick response and of removing authority from the child welfare system, which had been criticised for being too slow and lenient in cases of serious crimes.⁷³ Children between the ages of 10 and 17 who have committed a serious crime are now handled by two new bodies: Youth Crime Boards (hereinafter: YCB) and Youth Probation Services (hereinafter: YPS). This means that when a child (aged 10 to 17) is suspected of committing a serious criminal offence, he or she will be referred to YCB, which can issue mandatory child welfare interventions, while YPS is obligated to control and supervise the child in question during the implementation of those measures. These new court-like proceedings were introduced by the “Youth Crime Prevention Act”, which was aimed at juveniles who are suspected (aged 10-14) or convicted (aged 15-17) of a violent crime or repeated serious offending. It is important to emphasise that this new regulation did not replace the old one, but simply added this new procedure to the existing system, making the whole system more complex and complicated for juveniles and their parents.⁷⁴

The police now have to refer children aged 10 to 14 to YCB and notify the child welfare services, while children aged 15 to 17 will be referred to court and, if found guilty, will then be referred to YCB. YCB is a new body consisting of three board members: a judge, a representative from the local police and a representative from

⁷² *Ibid.*, p. 277.

⁷³ Ostergaard Larsen, B.; Henriksen, A.; Dyrvig Henriksen, T.; Torbenfelt Bengtsson, T., *New systems responses to juvenile crime, Experience from Denmark*, Nordisk Tidsskrift for Kriminalvidenskab, No. 3, 2023, pp. 332-333.

⁷⁴ *Ibid.*, pp. 332-334.

the municipal child welfare services. When a child is sent to YCB, the board has to arrange a meeting in order to determine which type of measures should be implemented to achieve special prevention. YCB is located in the court building. During the meeting all board members must be present. The child and their parents are obligated to attend this meeting, as are the child's probation officer and the child's welfare coordinator. All of them must cooperate to decide which type of measures should be implemented: an immediate response, an improvement programme or no response. Improvement programmes are very similar to measures that can be applied to a child by social welfare services. These programmes involve social welfare services' intervention for a fixed period of up to two years. After a decision has been made, the child is referred to the child welfare services, which are responsible for implementing these measures. The child can then be referred to YPS, which is obligated to monitor the child, their parents and the work of child welfare services.⁷⁵

When comparing the situation in Denmark before and after 2019, it can be concluded that before 2019, the social welfare system had more authority and could decide to implement different measures without the approval or control of the court system, especially in cases involving children below the age of criminal responsibility. After 2019, all children aged 10 to 17 must be referred to YCB, which now has the authority to decide which type of measure is appropriate for the child in question, while child welfare services are only part of the procedure and can provide their recommendation or opinion.⁷⁶ The current Danish system is very complex and difficult to comprehend, especially for children and their parents, who have already stated that in some cases they cannot understand the proceedings or the measure being implemented, or they have trouble distinguishing between different types of measures.⁷⁷

4.5. England and Wales

England and Wales have one of the lowest minimum ages of criminal responsibility in Europe, only 10 years.⁷⁸ The juvenile justice system deals with children

⁷⁵ *Ibid.*, pp. 335-336.

⁷⁶ *Ibid.*, pp. 344-345.

⁷⁷ We have a similar situation in Croatia, where juveniles and their parents have stated that they are not able to distinguish between a measure of increased care and supervision that can be imposed by a youth criminal court towards a juvenile and a measure of supervision over parental care that is imposed on parents in accordance with the provisions of the Family Act. See more on this problem in Radić, I., *Sustav maloljetničkih sankcija (Juvenile Sanction System)*, doctoral thesis, Faculty of Law, University of Zagreb, Zagreb, 2016, pp. 213-219.

⁷⁸ There has been extensive discussion in England and Wales regarding the minimum age of criminal responsibility. The new white paper "Cutting Youth Crime. Changing Young Lives. The youth justice

aged 10 to 17 who are suspected of committing a criminal offence. Before 1989 in England and Wales, children in conflict with the law and children in need of care and protection were both under the jurisdiction of the youth court. The 1989 Children Act introduced a separation between these two categories of children, and the family court gained authority over children in need of care and protection.⁷⁹ The data show that children who are already under the care of the local authority (children in need of care and protection) have a higher risk of committing a criminal offence and entering the juvenile justice system compared to children from the general population.⁸⁰

Regarding the role of social welfare services in the juvenile justice system, they are involved as part of a special body, the Youth Offending Team (hereinafter: YOT). YOT is a multi-agency body that consists of a social worker, a probation officer, a police representative, and education and health workers, though it may also include representatives from other areas.⁸¹ One of its main roles is to provide a pre-sentence report in order to inform the judge about the juvenile's character and their current family situation, and to identify the risk factors relating to the juvenile in question. In that report, it can also propose the type of sanction that should be imposed on the juvenile, taking into account the committed criminal offence and the juvenile's personal and family circumstances. YOT also supervises the execution of different juvenile sanctions.⁸²

YOT is monitored by the Youth Justice Board (hereinafter: YJB). Its role is to supervise the juvenile justice system in general, identify and set national standards, and advise government ministers on the juvenile justice system.⁸³ It should be noted that in England and Wales youth crime in general has been on the decrease, which also means that fewer juveniles are being sent to youth courts. This is also

system reform and delivery plan", published by the UK Government in May 2026, mentions that one element of this new policy reform in the youth justice system includes the consideration of raising the age of criminal responsibility in the UK. Available at: [<https://www.lawgazette.co.uk/news-focus/in-depth/once-in-a-generation-reform-of-youth-justice-system/5126889.article>], Once in a generation reform of youth justice system, Monidipa Fouzder, 25 May 2026.

⁷⁹ Bateman, T., *England and Wales* in International Handbook of Juvenile justice, eds. Decker, S.H., Marteache, N., Springer, 2017, p. 288.

⁸⁰ *Ibid.*, p. 289.

⁸¹ Dignan, J., *England and Wales* in: Dunkel, F.; Grywa, J.; Horsfield, P.; Pruin, I. (eds.), Juvenile Justice Systems in Europe, Current Situation and Reform Developments, Vol. 1, 2nd revised edition, 2011, p. 370.; The role of YJB is being revised in the new policy reform white paper "Cutting Youth Crime. Changing Young Lives", Ministry of Justice, UK Government, Presented to Parliament by the Lord Chancellor and Secretary of State for Justice by Command of His Majesty, May 2026, pp. 72-74.

⁸² For more information, see Radić (2016), *op. cit.* note 77, pp. 129-131.

⁸³ Dignan, J., *England and Wales*, *op. cit.* note 81, p. 371.

a consequence of the fact that diversion measures are increasingly being applied in the juvenile system as informal sanctions. However, the cases of juveniles that remain in the system tend to be more serious or present greater challenges.⁸⁴ In many cases, juveniles and their parents state that they lack information about the juvenile justice system. There are some examples of good practice where magistrates meet with Youth Justice Services in order to help the juvenile and their family prepare for participation in criminal proceedings by explaining the proceedings in general and their role in them. In those meetings, pre-sentence reports (PSRs) are shared and discussed in advance with the juvenile and their parents but this practice is not uniform and varies across England and Wales.⁸⁵

5. SOCIAL WELFARE SERVICES IN THE JUVENILE JUSTICE SYSTEM IN CROATIA

Different factors can affect the role and position of social welfare services in juvenile justice systems. The main aim of this paper is to determine what type of role and position social welfare services have during criminal proceedings towards juveniles in Croatia, in accordance with the results of a study that analysed the position of social welfare services in juvenile justice systems in 11 different European countries. The study was conducted from 2005 to 2012 by studying juvenile law, policy documents and through systematic observation of youth court hearings or their equivalents in 11 different EU countries. The countries that were part of the study are Belgium, England and Wales, France, Germany, Greece, Ireland, Italy, the Netherlands, Scotland, Spain and Switzerland.⁸⁶ The criteria used in the aforementioned study will serve as a framework for analysing the role of social welfare services in the Croatian juvenile criminal justice system by studying legal provisions that regulate the position of social welfare services during criminal proceedings towards juveniles. After the analysis, it will be possible to determine to which group the Croatian juvenile justice system belongs regarding the position of social welfare services during criminal proceedings.

As mentioned above, different elements can affect the role of social welfare services in a specific country, and the first element that will be observed is the legal tradition in which the judicial system operates: adversarial or inquisitorial. In practice, no purely inquisitorial or adversarial criminal proceedings exist because in many coun-

⁸⁴ Field, S.; Machura, S., *Youth Court in England and Wales: Learnings from European contexts and local developments*, Prison Service Journal, Issue 278, 2024, pp. 26, 30.

⁸⁵ *Ibid.*, p. 32.

⁸⁶ Scandinavian countries were not included in the study because of limitations regarding language and gaining access to court hearings. More on the methodology of the research conducted can be found in: Rap, S. E., *op. cit.* note 8, pp. 676-677.

tries elements from one tradition prevail.⁸⁷ *Common law* countries generally have a predominantly accusatory type of proceedings, while countries in continental Europe (continental legal tradition) generally have mixed-type criminal proceedings with inquisitorial elements.⁸⁸ Adversarial criminal proceedings are defined as a dispute between two equal parties that is settled before a court. The parties are more active during the trial; they present evidence directly before the court, which does not participate in proposing evidence. The court must be objective and is responsible for overseeing the entire procedure.⁸⁹ In inquisitorial proceedings, the investigation plays a very important role in the further course of the procedure. It is during the investigation that information about the juvenile is collected, which then becomes an integral part of the case file.⁹⁰ Croatia is a good example of a country that has a mixed type of criminal proceedings, with inquisitorial elements prevailing in the pre-trial stages of criminal proceedings, especially during investigation or enquiry, while adversarial elements prevail during the court hearing.⁹¹

Another element that can affect the role of social welfare services within criminal proceedings towards juveniles is the model of response to juvenile delinquency adopted by a particular state: a welfare or a justice approach. Juvenile justice systems that take more of a welfare approach focus on the juvenile and his or her behaviour, while the criminal offence is seen only as a symptom of various problems in the juvenile's personal and family life that have led to the delinquent behaviour. The main goal of this type of juvenile justice system is to protect and help the juvenile to achieve resocialisation into society and specialised prevention. In this type of system, social welfare services and other organisational forms through which social protection is provided are tasked with suggesting to the court, on the basis of an assessment of specific circumstances, whether and how to sanction the juvenile's criminal behaviour.⁹² The opposite type is the justice approach, where more emphasis is placed on the criminal offence and the procedural rights of the juvenile. In the justice approach, the juvenile is treated as a person capable of deciding about his or her own actions, like any other individual who freely chooses to engage in socially unacceptable behaviour. In this type of system, less attention is paid to the personal and social circumstances of the juvenile and his or her family, and the juvenile is sentenced to a criminal sanction with no

⁸⁷ *Ibid.*, p. 677.

⁸⁸ Tomašević, G., *Kazneno procesno pravo, Opći dio: temeljni pojmovi*, Split, 2011, pp. 33, 39-41.

⁸⁹ *Ibid.*, pp. 31-33.

⁹⁰ *Ibid.*, pp. 35-36.

⁹¹ Ljubanović, V.; Novokmet, A.; Tomičić, Z., *Kazneno procesno pravo*, Osijek, 2020, pp. 209-214.

⁹² Kovačević, M., *Osnovni modeli maloljetničkog pravosuđa s osvrtnom na ulogu i položaj socijalnog rada*. Ljetopis socijalnog rada 20, No. 2, 2013, pp. 303-306, Available at: [<https://hrcak.srce.hr/112968>].

or minimal intervention from social welfare services.⁹³ These types of systems deal only with juveniles who have committed a criminal offence, while children who have behavioural problems or a pre-delinquent status are treated by social welfare services outside the criminal justice system.⁹⁴ In most European countries, however, a mixed type of response to juvenile delinquency prevails, combining elements of the welfare and justice models in line with the features of juvenile criminal law in each country.⁹⁵ The Croatian juvenile justice system can also be characterised as a mixed type (welfare-justice model) of the juvenile justice system. YCA states that the purpose of imposing juvenile sanctions is special prevention, aimed at influencing the juvenile's upbringing and character and strengthening his or her sense of responsibility by providing help, care, protection and education so that he/ or she does not commit criminal offences in the future.⁹⁶ When choosing a juvenile sanction, the court considers the principles of individualisation, proportionality and subsidiarity. This provision clearly indicates elements of the welfare model approach.⁹⁷ On the other hand, when observing criminal proceedings towards juveniles in Croatia, it can be concluded that juveniles enjoy all procedural rights during criminal proceedings in accordance with Art. 6 ECHR and Directive 2016/800/EU, and even more, which indicates that elements of the justice model are also present.⁹⁸ In Croatia, the youth court deals only with children who are criminally liable and who have committed a criminal offence. Children under 14 are not criminally responsible and are not subject to criminal proceedings in Croatia.⁹⁹ Children whose behaviour constitutes a criminal offence but who are not criminally responsible, as well as children who exhibit behavioural problems (pre-delinquent behaviour), fall under the jurisdiction of the social welfare system, which is also an element of the justice model.

5.1. Two Main Models of Relation Between Social Welfare Services and Youth Courts

In EU countries covered by the aforementioned study, two main models have been identified regarding the relationship between social welfare services and

⁹³ *Ibid.*, pp. 306- 310.

⁹⁴ Rap, S. E., *op. cit.* note 8, pp. 678-679.

⁹⁵ Radić (2016), *op. cit.* note 77, pp. 94-98.

⁹⁶ Art. 6. YCA, for more information, see Carić, A.; *op. cit.*, note 2, pp. 7-8.

⁹⁷ For more information, see Radić (2016) *op. cit.*, note 77, pp. 397-421.

⁹⁸ Radić, I., *Implementacija Direktive o postupovnim jamstvima za djecu koja su osumnjičeni ili optuženi u kaznenim postupcima u noveli Zakona o sudovima za mladež*, Hrvatski ljetopis za kaznene znanosti i praksu, vol. 27, no. 2, 2020, pp. 571-601, Available at: [<https://hrcak.srce.hr/253326>].

⁹⁹ Art. 49 YCA.

youth courts: either social welfare services are directly attached to the youth court (as part of the juvenile justice system), or they operate as a separate and independent organisation.¹⁰⁰ In France, SEAT (*Service Éducatif Auprès du Tribunal pour Enfants*) is part of the court, and social workers from SEAT provide the judge with information on the young person's background before every hearing.¹⁰¹ In the countries analysed in the paper, the social system is separate from the judiciary, and social workers are usually involved only through a special body that assists the court in collecting data on juveniles (Austria, Germany, England and Wales, Denmark).

In Croatia, there are also professionals who work within the court and the state attorney's office, and their role is to provide the court or state attorney with information about the juvenile. These professionals are part of the judiciary and not part of the social welfare system. Youth courts and state attorneys' offices have expert associates who may be social pedagogues, social workers or psychologists.¹⁰² These expert associates provide the court with an expert opinion on the type of sanction that would be justified to impose on the juvenile at a court session or hearing, collect data on the implementation of the educational measure imposed on the juvenile, provide an opinion to the youth court council on the need to suspend or replace the educational measure, and perform other actions as instructed by the youth judge. Expert associates in the state attorney's office collect data and provide the expert opinions necessary for decisions within the jurisdiction of the state attorney.¹⁰³

Croatia also belongs to the group of countries where social welfare services are independent and separate organisation from the judiciary, but collaborate with youth judges and state attorneys' offices during criminal proceedings towards juveniles. The organisation of social welfare services in Croatia is described in the second part of the paper. Within the Croatian Institute for Social Work, there is no special department with exclusive competence for juvenile offenders; instead, juvenile offenders are dealt with by professional staff in the department responsible for children, youth and families in general. Their work is most evident during the execution of juvenile sanctions, such as special obligations (Art. 10 YCA) and increased care and supervision (Arts. 11 and 12 YCA). For example, during the implementation of a special obligation, the competent social welfare centre is obliged to appoint a measure coordinator, i.e. a person who assists the juvenile

¹⁰⁰ Rap, S. E.; *op. cit.*, note 8, p. 680.

¹⁰¹ *Ibid.*

¹⁰² Art. 43 para 1 YCA.

¹⁰³ Art. 43 para 2 YCA.

during the period of fulfilling the special obligation, within 15 days of receiving the decision. This may be an employee of the centre or an external collaborator. The measure coordinator must send a report to the centre once a month, and the centre executive officer is obliged to submit a report on the progress of fulfilling the special obligation to the youth court and the state attorney's office every three months, or more frequently at their request.¹⁰⁴

Youth courts and state attorneys' offices have an obligation to inform the social welfare services of the facts and circumstances that established during the proceedings concerning the juvenile and his or her family that indicate the need to take measures to protect the rights and well-being of the juvenile.¹⁰⁵ The judiciary is obligated to act if it notices that the child's rights are being violated and to alert the social welfare system so that appropriate protective measures can be taken in relation to the child. It is important to emphasise that measures within the social welfare system are applied to children who display pre-delinquent forms of behaviour, as well as in cases where there are problems in the family or violations of the child's rights, and that these measures must be taken regardless of whether the child has been convicted of a criminal offence. The social welfare system in Croatia responds to children and families who are in a state of social vulnerability, while the judiciary is competent to act only when a juvenile has committed a criminal offence.

In the paper it is often stated that the measure will be taken by the competent social welfare centre, hence it is necessary to state how the centre's jurisdiction is determined. The centre's jurisdiction in the criminal proceedings towards juveniles is determined in accordance with the jurisdiction of the youth court, which means that the competent social welfare centre will be the one based on the place of residence or temporary residence of the juvenile.¹⁰⁶ This principle regarding jurisdiction in the proceedings towards juveniles is accepted because it is believed that the facts and circumstances of the juvenile's life, and his or her living environment, can be determined more promptly and efficiently at the place of residence.

In each case where the state attorney acts towards a juvenile who is suspected or accused of committing a criminal offence, they are obligated to inform the competent social welfare centre.¹⁰⁷ The obligation of the state attorney to inform the social welfare centre about any initiated proceedings towards juveniles should be

¹⁰⁴ Radić I. (2016), *op. cit.*, note 77, pp. 180-182.

¹⁰⁵ Art. 56 YCA.

¹⁰⁶ Art. 47 YCA.

¹⁰⁷ In Croatia, competent social welfare services will also be informed in cases when the suspect is a young adult, see Art. 107, para 1 YCA.

seen as a necessary prerequisite for the centre to be able to execute their duties and safeguard the juvenile's rights during the proceedings.¹⁰⁸ The aforementioned obligation also applies when a juvenile is subject to joint proceedings with an adult, as well as in the case of younger adults. A representative of the social welfare centre has the right to familiarise himself or herself with criminal proceedings, to make proposals during the proceedings, and to point out facts and evidence that are important for making a correct decision regarding the juvenile in question.¹⁰⁹

The most important role of the social welfare centre during proceedings towards juveniles is to collect information necessary for assessing the psychophysical development of the juvenile, as well as information about his or her personal and family circumstances, and to submit that data in the form of a report to the competent judicial authorities.¹¹⁰ The juvenile's parents or legal guardian and other persons who can provide the necessary information in order to obtain the aforementioned information about the juvenile will be questioned. In cases where the juvenile has already been sentenced to a juvenile measure, a report on the implementation of that measure will also be obtained.¹¹¹ The state attorney is obligated to collect this information about the juvenile during criminal proceedings and has two options: he or she can entrust the collection of this information to aforementioned expert associate working at the state attorney's office, or to the social welfare centre. In some cases, when it is considered necessary, the opinion of a doctor, psychologist or pedagogue will be sought to assess the juvenile's medical condition, psychological development or characteristics. In some cases, an opinion may also be requested from a healthcare, social welfare or other institution.¹¹²

In practice, if there is an expert associate working in a state attorney's office, the state attorney will entrust that person with the collecting data about the juvenile. When the expert associate receives that request, in most cases he or she will contact the competent social welfare centre to determine whether it has information about the juvenile and their family, whether they are being monitored by the social welfare services, and whether there has been any report about that family to the social welfare services. The social welfare services must be informed about criminal proceedings towards juveniles, but they are also informed in order to determine whether the juvenile has already been reported to the centre for some form of delinquent behaviour. Another institution that is usually approached is

¹⁰⁸ Cvjetko, B., Singer, M., *op. cit.* note 3, p. 317.

¹⁰⁹ Art. 57 YCA.

¹¹⁰ Art. 78 para 1 YCA.

¹¹¹ Art. 78 para 2 YCA.

¹¹² Art. 78 paras 3 and 4 YCA.

the school that the juvenile attends or has attended, because important data about the juvenile's character can also be obtained from the school's counselling and support services. This part clearly shows how important it is that multi-institutional cooperation and an approach that encompasses various aspects of the juvenile's life be applied within the framework of the treatment of the juvenile so that he or she can be provided with appropriate help and support.¹¹³

The state attorney is also obliged to notify the centre of the decision to submit a proposal for the imposition of a juvenile sanction or to suspend the preparatory proceedings within eight days of that decision.¹¹⁴ The obligation to notify the social welfare centre about any procedural action that significantly changes the juvenile's procedural position is connected with the need for the social welfare services to be informed of the juvenile's current procedural position so that they can provide him or her with appropriate support.

5.2. Stage of Criminal Proceedings Towards Juveniles at Which Social Welfare Services Become Involved

The study also found differences between countries regarding the stages of criminal proceedings towards juveniles at which social welfare services become involved. Again, two models can be observed: countries where social welfare services are in contact with juveniles from the beginning of the criminal proceedings, and countries where social welfare services become involved at later stages of the proceedings.¹¹⁵ In some countries, social welfare services are involved from the beginning of the criminal proceedings towards juveniles. For example, in Germany JGHS must be involved in criminal proceedings towards juveniles from the earliest possible stage. In Denmark, the police must inform the parents or social welfare services about the juvenile's arrest. In a study conducted by Rap it was concluded that in countries with a more welfare-oriented juvenile justice system, such as Belgium, France, the Netherlands and Switzerland, social welfare services are informed about the proceedings at the pre-trial stage (in cases of arrest or pre-trial detention).¹¹⁶ In another group of countries, social welfare services are usually involved at a much later stage of criminal proceedings. These are usually countries

¹¹³ For more information on the importance of individual assessment of juveniles during criminal proceedings, see: Radić, I. (2020), *op. cit.* note 98, pp. 586-588.

¹¹⁴ Art. 79 para 3 YCA.

¹¹⁵ Rap, S., *op. cit.* note 8, p. 682.

¹¹⁶ *Ibid.*, pp. 682-683.

that have a more justice-oriented approach in the juvenile justice system, especially Anglo-Saxon countries such as England and Wales, Ireland and Scotland.¹¹⁷

Croatia belongs to the first group of countries. In Croatia, social welfare services must be informed in every situation where a juvenile is suspected or accused in criminal proceedings from the very beginning, before formal criminal proceedings have started, and their role then differs according to the stage of the proceedings. In cases where a juvenile is arrested or temporary measures, precautionary measures or pre-trial detention have been imposed on him or her, the competent social welfare centre must be informed.¹¹⁸ During criminal proceedings, after the court has obtained information about the juvenile's personal and family life from the social welfare services, the court may *ex officio*, or upon the proposal of the state attorney, decide that the juvenile be temporarily placed under the supervision of the social welfare centre during the proceedings for the purpose of providing assistance and protection, or that he or she be temporarily placed in a social welfare institution, when this is appropriate to the expected sanction, in order to protect the juvenile from further endangerment of his development, especially from the temptation to repeat the criminal offence.¹¹⁹ Temporary placement in a social welfare institution and supervision are implemented during criminal proceedings towards juveniles as educational measures of supervision (Art. 11 YCA) and referral to an educational institution (Art. 15 YCA). These measures can last until the final conclusion of the proceedings, but the court is obliged to examine the grounds for temporary placement every two months, counting from the date of the finality of the previous decision. The time the juvenile spends in temporary placement in a social welfare institution will be included in the duration of the institutional educational measure.¹²⁰

In many European juvenile justice systems, it is possible to impose an informal sanction on juveniles before criminal proceedings have formally begun, at the pre-trial stage. Informal sanctions are usually imposed by the state attorney at the pre-trial stage of criminal proceeding before the juvenile has been found guilty. Social welfare services often play a major role in the application of these informal sanctions, as they supervise the juvenile during the implementation of these measures and give their opinion on the possibilities of imposing a specific measure on the

¹¹⁷ In those countries, social workers are instructed to prepare a pre-sentence report or social enquiry report and advise the judge about the personal circumstances of the juvenile in question. Rap, *op. cit.* note 8, p. 683.

¹¹⁸ Art. 63 para 1 YCA and Art. 68 YCA.

¹¹⁹ Art. 65 YCA.

¹²⁰ Art. 65 paras 3 and 4 YCA.

juvenile.¹²¹ Croatia is not an exception because, in criminal proceedings towards juveniles, the principle of opportunity is broadly applied in practice. For example, 40% of cases of juvenile offenders were decided based on the principle of opportunity by the state attorney in 2024, and 41,5% in 2023.¹²² In YCA, there are several possibilities for applying the principle of opportunity. Primarily, Arts. 71-73 YCA provide this possibility to the state attorney, but there is also a possibility for the youth judge to apply this principle during criminal proceedings. In Croatian practice, the principle of opportunity is mainly used by the state attorney at the pre-trial stage. There are two main types of the principle of opportunity: unconditional and conditional opportunity. In both cases the state attorney can decide against initiating criminal proceedings even if there is reasonable suspicion that the juvenile has committed a criminal offence for which a fine or a prison sentence of up to five years is prescribed, if the state attorney concludes that conducting criminal proceedings would not be purposeful, taking into account the nature of the offence, the circumstances in which it was committed, the juvenile's previous life and his or her character. The state attorney can attach additional requirements, special obligations, to this decision. In order to determine all the circumstances regarding the juvenile and the criminal offence committed, the state attorney can request information from the juvenile's parents and other competent institutions (including social welfare services) or request that this information be collected by an expert associate at the state attorney's office.¹²³ Again, information about the juvenile's personal and family life has to be collected and, in practice, social welfare services will be contacted. If the state attorney has decided to apply the principle of unconditional or conditional opportunity, he or she is obligated to submit the decision with an explanation to the social welfare services.¹²⁴ The role of social welfare services will continue in cases of conditional opportunity because then social welfare services have to assist and monitor the juvenile during the implementation of special obligations. When the juvenile has fulfilled his or her obligations, the state attorney will make a final decision not to initiate proceedings towards the juvenile.¹²⁵ The state attorney is obliged to notify the social welfare services of his or her decision to submit a proposal for the imposition of a juvenile sanction or

¹²¹ For more information, see Puharić, B.; Radić, I., *Primjena načela svrhovitosti u postupanju prema maloljetnicima*, HLJKPP, Zagreb, vol. 22, no. 2, 2015, pp. 635-670.

¹²² Source: According to the State Bureau of Statistics data, in 2023 and 2024, based on the principle of opportunity, 40% (455/1096 reported) of criminal proceedings towards juveniles were not initiated, and in 2021, 41,5% (506/1268 reported). For more information on statistics for previous years, see: Puharić, B., Radić, I.; *op. cite*, note 121, pp. 649-653.

¹²³ Art. 71 para 1 YCA.

¹²⁴ Art. 71, para 3 and Art. 72 para 3 YCA.

¹²⁵ Art 71 paras 2 and 3 YCA.

to suspend the preparatory procedure within eight days from the date of the decision.¹²⁶ This provision also indicates that the state attorney is obligated to inform the social welfare services of his or her decisions regarding the juvenile at different stages of criminal proceedings in order to ensure that the social welfare services have all the information about the juvenile's current legal position and that they can execute their duties and safeguard the juvenile's rights during the proceedings.

All of the aforementioned elements affect the role that social welfare services have during hearings before the youth court in different juvenile justice systems. In some countries, such as Belgium and France, social workers are not always present at every court hearing because they have already submitted their written report to the judge and may also have an informal meeting with the judge in his or her chambers.¹²⁷ In other countries, social workers have a more active role during court hearings and are required to be present, for example in Germany and Austria. However, in many cases the role of the social worker during the hearing lies somewhere in between, meaning that social workers can be present at the hearing but do not have an active role. In Germany, for example, a social worker may be present at the hearing, but in practice, because of the work overload, social workers are usually not present at hearings, especially in cases of less serious criminal offences.¹²⁸

In Croatia, social welfare services are among the participants in criminal proceedings. These are persons and bodies that participate in criminal proceedings and whose legal status is determined by the regulations of criminal procedural law.¹²⁹ It is important to emphasise that in criminal proceedings towards juveniles in Croatia, social welfare services do not have the role of a party to the proceedings and do not have the same legal status as the state attorney or defence attorney.¹³⁰ The representative of the social welfare centre has the right to become familiar with the course of the proceedings, to make proposals during the proceedings and to draw attention to facts and evidence that are important for making the correct decision.¹³¹ This means that the representative of social welfare services may be present at different stages of criminal proceedings towards juveniles in Croatia. As mentioned, they must be informed in cases of a juvenile's arrest or when the youth court is deciding on pre-trial detention. A representative of the centre may

¹²⁶ Art. 79 para 3 YCA.

¹²⁷ Rap, *op. cit.* note, p. 685.

¹²⁸ Dunkel, F.; *op. cit.* note 50, pp. 9-10.

¹²⁹ Tomašević, G.; *op. cit.* note 88, p. 24.

¹³⁰ Cvjetko, Singer, *op. cit.* note 3, p. 316.

¹³¹ Art. 57 para 1 YCA.

be present during the youth court council session when a decision is made on the state attorney's proposal to impose a sanction on the juvenile,¹³² and they must be summoned to the main hearing.¹³³ The absence of representatives of social welfare services does not prevent the court from holding the hearing.¹³⁴ If the representative of social welfare services is present during these stages of criminal proceedings, they have the right to present proposals and to point out facts that are important for making the final decision. This does not only refer to the facts and evidence that are necessary for the evaluation of the juvenile's character and living environment, but may also refer to circumstances related to the committed criminal act.¹³⁵

Social welfare services are also involved in the implementation of juvenile sanctions such as special obligations (Art. 10 YCA), increased care and supervision (Art. 11 YCA) and institutional educational measures carried out in institutions within the social welfare system (Arts. 13, 15 and 17 YCA).¹³⁶ Social welfare services must submit a report on the progress of the implementation of different educational measures every three months to the court that imposed those measures and to the competent state attorney. The youth judge may at any time request a report on the implementation of educational measures from the social welfare centre or an expert associate.¹³⁷

6. CONCLUSION

After analysing the legal provisions that regulate the position of social welfare services during criminal proceedings towards juveniles in Croatia, it can be concluded that Croatia is one of the countries that combines elements of different systems to achieve the best possible solutions. The Croatian juvenile justice system combines elements of the welfare model, especially regarding the implementation of juvenile sanctions, and elements of the justice model, which are more prominent during criminal proceedings towards juveniles. As emphasised at the beginning of the paper, Croatia is a welfare state, which also affects the role of the social welfare services system in society in general. The role and position of social welfare services in the juvenile system are regulated within the framework of these

¹³² Art. 84 para 1 YCA.

¹³³ Art. 86 para 2 YCA.

¹³⁴ Art 86 para 3 YCA.

¹³⁵ Hirjan, F.; Singer, M., *Komentar Zakona o sudovima za mladež i kaznenih djela na štetu djece i maloljetnika*, Nakladni zavod Globus, Zagreb, 2002, p. 129.

¹³⁶ Due to limitations in the scope of the paper, it will not address the role of social welfare services during the implementation of juvenile sanctions. For more information on the subject, see: Radić (2016), *op. cit.* note 72, pp. 164-288.

¹³⁷ Art. 98 YCA.

basic features. The social welfare system in Croatia is separated from the judiciary and falls under the jurisdiction of a separate ministry. This system encompasses various beneficiaries and activities, of which children with behavioural problems represent only a small part.

Social welfare services are organisationally separate from the juvenile justice system, but during criminal proceedings towards juveniles they must collaborate to achieve the same goal: the resocialisation and special prevention of the juvenile. The primary role of social welfare services is focused on providing assistance to the juvenile and his or her family during a difficult time by giving them advice and support and helping them overcome the problematic situation. On the other hand, their role is also to assist the youth court by collecting and presenting information about the juvenile's character and family situation in order to help the court choose an appropriate measure for the juvenile. The influence of social welfare services is most visible in the report on the psychophysical and social anamnesis of the juvenile. The individual assessment of the juvenile is in many ways crucial when deciding on the juvenile's sanction. In their report, social welfare services propose a measure that they consider to be adequate in that individual case. In many cases, it can be hard to reconcile these separate goals. On the one hand, social welfare services have to focus on the needs of the juvenile, but on the other hand they have to assist the youth court, show the juvenile that he or she is responsible for his or her behaviour, and, in some situations, ensure that society is protected from the consequences of such behaviour. This dual role of social welfare services also corresponds to the dual purpose of criminal proceedings towards juveniles.

When examining the role of social welfare services throughout the course of criminal proceedings towards juveniles in Croatia, it can be concluded that social welfare services are involved in criminal proceedings even before the proceedings have formally begun; they must be informed about every procedural action taken towards juveniles by the state attorney or youth court so that they can participate actively; their role also depends on the stage of the criminal proceedings in question. During criminal proceedings, they play an active role and may be present during court hearings. Comparing the role of social welfare services in Croatia with other countries that have been analysed in this paper, and with the results of the research conducted by Rap, it can be concluded that the legislative framework of the Croatian juvenile justice system is very similar to that in a large number of EU countries, especially those that belong to the European continental legal tradition, such as Germany and Austria.

The only question that remains is how these legislative solutions are implemented in practice. The legislative analysis presented in this paper can serve as a basis for further research on how social welfare services exercise their rights and obligations in practice during criminal proceedings. It can be assumed that, due to various persistent problems in the social welfare services system over many years – such as work overload, low wages, employee turnover and users' dissatisfaction, there are also difficulties in implementing the aforementioned provisions in practice.

In our opinion, there is a need to reconsider the role of social welfare services in criminal proceedings towards juveniles in Croatia. One possible solution would be to establish a specialised department within the existing social welfare services system that would have exclusive competence for cases involving juvenile offenders. Alternatively, specialised multidisciplinary teams (similar to those in Germany, Austria or Denmark) could be formed within the judicial system and assigned the responsibilities currently performed by social welfare services. The role performed by social welfare services within the Croatian juvenile justice system is undoubtedly necessary and valuable. However, the question remains whether the existing system, burdened by numerous structural and organisational challenges, is capable of fulfilling this role effectively and consistently in practice.

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