



THE SPECIFICS OF JUVENILE CRIMINAL LAW IN THE CZECH LEGAL SYSTEM

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ABSTRACT

This study examines the specific features of criminal liability for juveniles in the Czech legal system, from both a historical and a contemporary legal perspective. It reviews the development of the legislation from Austrian criminal law traditions through the 1931 Juvenile Act and the regulations of the socialist era to the current Act No. 218/2003 on Juvenile Justice. The study focuses on a child-centered, educational, and restorative approach, which prioritizes the social reintegration, development, and restitution of harm caused by juveniles over retribution. The study analyzes the minimum age of criminal responsibility, the principle of relative accountability, and the assessment of intellectual and moral maturity. It presents the system of educational, protective, and punitive measures, as well as the principle of deprivation of liberty as a measure of last resort. Special attention is given to procedural safeguards, including juvenile courts, mandatory defence, restrictions on publicity, and the role of the Probation and Mediation Service.

KEYWORDS Juvenile criminal law; Czech legal system; child-friendly justice; restorative justice; criminal liability

1. Introduction

The special treatment of young offenders has long been a focus of attention in criminal law. Since the end of the nineteenth century, the prevailing view has been that juvenile offenders should be dealt with in a justice system distinct from that of adults, and that responses to their offences should focus primarily on education and social reintegration (Kasnyik, 2017). As a result, during the twentieth century many countries introduced specific regulations for handling juvenile cases, and significant developments in this regard were made in the Czech Republic as well.

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However, within the evolution of Czech law, juvenile criminal justice has followed a long and unique path, with its roots laid as early as the era of the Austro-Hungarian Monarchy. Current Czech criminal justice is grounded in the provisions of Act No. 218/2003 on Juvenile Justice, which aims to uphold the principles of child-centred justice.

This study aims to present the evolutionary process of criminal regulation regarding juveniles, as well as to provide an overview of the current legal provisions.

2. The Historical Evolution of the Criminal Assessment of Juveniles

The foundations of juvenile criminal law in the territory of the present-day Czech Republic were laid during the era marked by Maria Theresa and Joseph II through the *Constitutio Criminalis Theresiana* of 1768. Although this document did not contain specific provisions regarding juveniles, it played an indisputable role in establishing the groundwork for criminal law concepts.

This was followed by the Penal Code of 1787, which already expressed the special status of children by classifying those under the age of 14 as lacking criminal capacity and declaring that the actions of such persons could be followed only by police registration (Mašková, 2014). Subsequently, the Penal Code of 1803 introduced the concept of the juvenile offender, setting the upper age limit at twenty years (Papanová, 2023). This provision already reflected the distinct status of adolescence as a special stage of life. The final penal code of the Monarchy valid in the Czech lands was the Code of 1852, which distinguished three age stages (Mašková, 2014):

- Childhood (up to 10 years): total incapacity to commit a crime.
- Minority (between 10 and 14 years): conditional responsibility – the adjudicating court had to assess whether the minor involved possessed the necessary intellectual and moral maturity to recognize the unlawfulness of the act at the time of its commission.
- Juvenile age (between 14 and 20 years): juveniles bore criminal responsibility for their actions in the legal sense, but with certain limitations: the imposition of the death penalty or life imprisonment was prohibited in their case.

Following the dissolution of the Austro-Hungarian Monarchy, two distinct legal traditions persisted in the territory of the newly established Czechoslovakia: the rules of the Austrian Penal Code of 1852 remained in force in the Czech lands, while earlier Hungarian law remained valid in Slovakia and Transcarpathia (Šámal et al., 2007). The approach in the latter territories was significantly more progressive, as Act XXXVI of 1908 and Act VII of 1913 on the Juvenile Court laid

the foundations for modern juvenile criminal justice. Consequently, courts in Slovakia and Transcarpathia already possessed the specialized institutional system that had yet to be established in the Czech territories.

However, the legislature soon recognized that the special status of juveniles required specific attention. As a result, Act No. 48/1931 on Juvenile Criminal Justice entered into force on 1 October 1931 (*Zákon č. 48/1931 Sb.*). This Act was considered pioneering for its time (*Kalvodová & Fryšták, 2022*). On the one hand, it regulated the age of criminal responsibility in such a way that persons under 14 years of age – termed *nedospělí* (children) – fell outside the scope of criminal law, thus enjoying absolute impunity. If a person of such age committed a punishable act, the case was brought before the guardianship court, which could apply only educational or curative measures, such as placement in a remedial educational institute.

Furthermore, the Act defined the concept of a juvenile at the definitional level, encompassing persons who had completed their 14th year but had not yet completed their 18th year at the time of committing the offence (*Knoll & Pezl, 2022*). However, the Code did not permit the unrestricted criminal prosecution of these persons; it excluded from this circle those juveniles who, at the time of the act, were incapable of recognizing the unlawfulness of the act or of controlling their conduct in accordance with such recognition (*Zákon č. 48/1931 Sb.*).

Moreover, the Act introduced a significant innovation in legal terminology: it adopted a distinct designation for acts committed by juveniles, defining them by the term *misdemeanour* (*Šámal et al., 2007*). By using a different term for punishable acts committed by juveniles, the legislature reflected the fundamental attitude that deviant behaviour by youth is distinct from adult criminality.

Regarding sanctions applicable to juveniles, the 1931 Code declared the primacy of educational measures: while individual educational measures and punishments formed a unified system, they stood in a strict hierarchical relationship. The legislature permitted the imposition of punishment only as a last resort, when educational measures proved insufficient (*Komrsková, 2014*). With respect to educational measures, courts possessed a broad toolkit: they could order, among other things, family supervision, a reprimand, or the strictest educational measure, protective education, which was executed in special educational institutes for an indeterminate duration, but no longer than until the attainment of majority (*Krejčířiková, 2010*). If the educational measure was insufficient, the court could impose a penalty; however, the aim of this was not retribution, but rather resocialization.

Perhaps the greatest achievement of the Act was the establishment of a separate court system for juvenile cases, operating independently from ordinary criminal courts and with a specific composition – for instance, involving lay judges possessing pedagogical knowledge (Karabec et al., 2011).

The Act laid down the principles of restorative justice in the modern sense by emphasizing that traditional punishments were unsuitable in the fight against juvenile delinquency; thus, it sought to apply primarily educational tools to this age group. In this spirit, convicted juveniles were placed in reformatories, and the adjudicating courts frequently applied alternative measures not involving the deprivation of liberty.

The political changes following World War II exercised a significant impact on Czechoslovakia's legal system. In 1950, the communist leadership repealed the 1931 Act and simultaneously merged the provisions regarding juveniles into the new unified Penal Code (*Trestní zákon č. 86/1950 Sb.*), which entered into force on 1 August 1950 (Blažek & Tarabová, 2019). This Code recognized adolescence as a special age category only to the extent of treating it as a mitigating circumstance within the general system.

Legislation during this period viewed juvenile offenders as “products” of socialist society (Kalvodová & Fryšták, 2022), who were to be guided back to the right path primarily through ideological and educational means. Thus, the main emphasis was placed on resocialization and social supervision: juveniles committing serious crimes were placed in reformatories, while mechanisms similar to probation supervision were applied in cases of less serious offences (Krejčířiková, 2010).

During this period, Czechoslovak law set the lower age limit of criminal responsibility at 15 years, and the principle of relative imputability applied by the 1931 Act remained in force. As a further innovation, the category of young adults appeared, in whose case the court could exercise discretion to treat offenders aged 18–21 as juveniles if it deemed that the offender's personality and level of maturity were closer to that of a juvenile (Blažek & Tarabová, 2019).

A significant step backward was the abolition of separate juvenile courts.

In the early 1960s, a new wave of codification followed with the adoption of Penal Code No. 140/1961, which refined the system somewhat but did not alter the fundamental ideological framework.

A key concept of socialist criminal law was danger to society. Under Section 75, courts could waive punishment if the act's danger to society was negligible. This rule allowed adjudicating courts to ensure more lenient and equitable treatment for young offenders coming before them.

Section 74 defined the lower age limit of criminal responsibility at the 15th year; a juvenile was defined as a person who had completed their 15th year but had not yet completed their 18th.

In the juvenile justice system of the socialist era, correctional institutional education became the most important tool for managing problematic youth, thus prioritizing state institutional care.

Following the regime change, a comprehensive reform of criminal law began in Czechoslovakia – and, from 1993, in the independent Czech Republic. The Czech Republic acceded to the UN Convention on the Rights of the Child in 1991, after which the principles of child-centred justice increasingly came to the fore. Following the Beijing Rules and the recommendations of the Council of Europe, the legislature recognized the necessity of creating a standalone act containing provisions specifically applicable to juveniles. As a result, Act No. 218/2003 on Juvenile Justice entered into force on 1 January 2004. This Code, for the first time, regulated the issue of juvenile criminal responsibility, the scope of sanctions applicable to juveniles, and the relevant procedural issues within a standalone act. The significance of the Act lay in the fact that offences committed by juveniles were henceforth adjudicated by special courts established for this purpose, according to special rules, utilizing a wide range of punishments and educational measures (Večerka et al., 2003). With the entry into force of this Act, the Czech Republic introduced the principles of restorative justice and diversion into criminal law (Kalvodová & Fryšták, 2022).

3. The Current Legal Framework

The currently effective Czech juvenile justice system sharply distinguishes between general criminal law applicable to adult offenders and the special regulations applicable to juveniles. Its basis is still provided by Act No. 218/2003, which comprehensively regulates both substantive criminal law and the specific rules of criminal procedure, defines the scope of sanctions imposable on juveniles, and establishes the necessary institutional system. The legislation rests fundamentally on four pillars:

- A separate system of liability (it avoids the use of the term “crime”);
- Child-friendly procedural guarantees (judges specializing in juvenile cases);
- Primarily educational and protective measures;
- The best interests of the child as a fundamental principle (Válková, 2025).

Its Preamble and introductory provisions clearly designate the direction of juvenile justice. The purpose of the Act is not retribution, but rather to ensure that the young offender refrains from further legal violations and finds their place in society, while contributing to the reparation of the harm caused. In this

way, the legislature proclaimed the primacy of restorative justice and education, which is also reflected in the terminological innovations introduced by the Act.

The Act introduced a tripartite conceptual system:

- *Misdemeanour*: the range of punishable acts defined by the Czech Criminal Code committed by a juvenile.
- *Measure*: the collective designation for sanctions applicable to juveniles, comprising educational, protective, and penal measures.
- *Act otherwise punishable*: the designation for acts committed by children under the age of criminal responsibility (15 years) or by juveniles classified as lacking criminal capacity, emphasizing the absence of criminal liability (Novák, 2024).

The Czech legal system distinguishes the following main categories among young persons:

- *Child*: a person under 15 years of age who commits an act that the law would otherwise treat as punishable. Under Czech law, such a person cannot be held criminally liable (although juvenile courts may impose educational measures within civil proceedings).
- *Juvenile*: a person who has completed their fifteenth year but has not yet completed their eighteenth year at the time of committing the offence. The special provisions defined by Act No. 218/2003 apply to this group of persons.
- *Young Adult / Person Close to the Age of a Juvenile*: the issue of this category also deserves mention. Although the Czech legislature did not introduce the category of young adult as an independent criminal-law group – thus full criminal liability sets in unconditionally upon the completion of the 18th year – Section 41(b) of the Criminal Code recognizes the status of a “person close to the age of a juvenile”. This fundamentally means that, in the case of an offender who has completed their 18th year but not yet their 21st, the court may take into account the protracted process of personality maturation. In this case, although the procedure is conducted according to the general rules governing adults, this status may be considered as a mitigating circumstance during sentencing.

Based on Act No. 218/2003, Section 1(c), a juvenile is a person who, at the time of committing the offence, has completed their fifteenth year but has not yet completed their eighteenth year. Based on this definition, the minimum age of criminal responsibility is 15 years. Prior to attaining this age, children enjoy absolute immunity from criminal liability and thus cannot be subjected to criminal proceedings for any offence. The Act provides no exceptions to this rule.

The determination of the minimum age of criminal responsibility is a recurring issue, which returned to the agenda in the second half of the 2000s, when the

lowering of the age limit from 15 to 14 years was proposed – indeed, some argued for setting the age of criminal liability at 13 years. The initiative sparked heated debate; thus, citing the lack of professional consensus, the 15-year age limit remained unchanged (*Věková hranice trestní odpovědnosti se snižovat nebude*, 2007). The Czech legal community remains divided regarding the age limit to this day; however, according to the results of research conducted by the Institute of Criminology in 2024, 67% of professionals working in reformatories consider lowering the age limit justified (*Hulmáková et al.*, 2024). The reason for this presumably lies in the fact that, in practice, they observe the behaviour of problematic youth over extended periods and, on that basis, deem the solutions of the current system insufficient. In contrast, the vast majority of legal practitioners would leave the age limit unchanged (*Hulmáková et al.*, 2024).

The upper age limit of juvenile status is the completion of the 18th year. A person who has already completed their 18th year at the time of committing the act is liable for the act according to the criminal provisions governing adults. An exception may be made regarding the execution of sanctions: the Act allows persons who have completed their 18th year to remain, under certain conditions, in a correctional facility reserved for juveniles in order to complete their studies or therapeutic programmes, thereby avoiding the negative effects of the adult prison environment.

Alongside age limits, the legislature introduces an additional set of criteria. This acknowledges that attaining a certain age is not necessarily sufficient to establish criminal liability; therefore, it must be examined whether the young person having reached the given age actually possessed the cognitive and moral maturity necessary for being held liable. In this regard, the Act applies the principle of relative criminal liability, under which an offender between the ages of 15 and 18 is punishable only if, at the time of the commission of the offence, they possessed the intellectual and moral maturity necessary to recognize the nature of the act and to control their conduct. With this provision, the legislature acknowledges that the mental development of certain persons may lag behind their biological age. The Supreme Court addressed the conceptual elements of maturity in detail in its guideline No. 8 Tdo 1069/2006. In this context, courts must evaluate two components that are inseparable yet must be examined individually (*Hlaváčová, n.d.*):

- Intellectual maturity encompasses cognitive abilities, within the scope of which the court examines the juvenile's capacity to recognize the harmful or unlawful nature of their actions.
- Moral maturity may be understood as a developmental process through which a juvenile gradually internalizes socially accepted behavioural norms and incorporates them into their own personality, moral character,

and value system. This individual value system then exists in a particular relationship with the values of the surrounding society (Hlaváčová, n.d.). Regarding incomplete moral maturity, it should be highlighted that it can very often be traced back to deficiencies in upbringing or a dysfunctional family background.

A lack of maturity, and thus relative non-imputability, may be invoked only if specific facts arise that cast doubt on the youth's development. In this case, pursuant to Section 58 of Act No. 218/2003, the involvement of two experts is required: a medical expert specializing in child psychiatry, and a child psychologist or pedagogical expert. Their opinion must answer the question of whether the juvenile suffers from any mental disorder and whether their personality development corresponds to their biological age.

4. The System of Sanctions

The sanction system established by Act No. 218/2003 is hierarchically structured, progressing from milder interventions towards more severe ones. The Act distinguishes three main categories: the triad of educational measures, protective measures, and penal measures. With regard to this classification, the principle of gradation applies: when sanctions are imposed, priority should be given to the milder instrument, particularly where its educational character predominates. Moreover, the measures should be tailored to the juvenile offender's individual circumstances, including their personality, age, intellectual and moral maturity, health condition, and personal, family, and social background. They must also remain proportionate to the nature of the act committed (European e-Justice Portal, n.d.).

Educational measures are the mildest, non-custodial sanctions, the aim of which is to positively influence the juvenile's lifestyle without removing them from their own family environment. Their distinct feature is that the public prosecutor may also apply them during the preparatory proceedings, provided that the juvenile consents thereto. This allows for the swift conclusion of the proceedings. The measures may be applied independently, but frequently appear in combination with other measures.

The Code specifies the following educational measures:

- probation supervision,
- probation programme,
- educational obligations,
- educational restrictions,
- admonition.

Probation supervision represents the most intensive intervention in the youth's life among the above measures, without removing them from their accustomed environment. It fundamentally fulfils a dual role, as it embodies both control and assistance in relation to the juvenile concerned; thus, its primary goal is the continuous monitoring of the juvenile's behaviour, the reduction of the risk of recidivism, and the provision of assistance so that the juvenile may lead a life in the future in accordance with legal and social norms, as stated in Section 16(2) of Act No. 218/2003. Research by the Czech Institute of Criminology points out that, among educational measures, this is the most frequently applied measure (Večerka et al., 2003), as the recidivism rate is significantly lower in the case of youths affected by it.

The probation programme is a more intensive and targeted intervention aimed at addressing specific problems. In this regard, only programmes accredited by the Ministry of Justice may be applied (Ministry of Justice of the Czech Republic, 2014), thereby ensuring that proven effective interventions take place during the measure applied. However, pursuant to Section 17(2), the fulfilment of three conjunctive conditions is necessary for ordering the programme:

- the programme is consistent with the juvenile's needs and the interests of society,
- the juvenile has had the opportunity to become acquainted with the content of the programme, and
- the juvenile has consented to participation in the programme.

The purpose of educational obligations and educational restrictions is to encourage the juvenile to perform active actions or, conversely, to refrain from certain activities. The statutory list in this regard is merely exemplary, so the adjudicating court possesses broad discretion in determining the specific obligation. With regard to restrictions, it should be highlighted that they primarily aim to eliminate criminogenic factors from the youth's environment; however, these restrictions must not hinder the juvenile in fulfilling their compulsory education or practising their profession, pursuant to Section 19(2) of Act No. 218/2003.

Admonition is the mildest form of educational measure, during which the prosecutor or judge, in the presence of the juvenile's legal representative, expresses disapproval of the juvenile's act and warns the young person of the consequences of future legal violations. This legal consequence may be particularly appropriate for first-time offenders, as, in their case, appearing in a court environment often possesses sufficient deterrent force.

Table 1: Educational Measures in the Czech Juvenile Justice System

Type of measure	Legal basis	Objective	Nature of the measure	Specifics of application
Probation supervision	Section 16	Control and assistance	Continuous, intensive monitoring of lifestyle	An individual educational plan is required
Probation programme	Section 17	Skill development, behavioural change	Structured, therapeutic in nature	Only accredited programmes may be applied
Educational obligations	Section 18	Active conduct, reparation	Obligation to act (positive obligation)	Any obligation may be prescribed
Educational restrictions	Section 19	Exclusion of risk factors	Obligation to refrain (negative obligation)	Must not hinder the pursuit of studies or employment
Admonition	Section 20	Moral disapproval, deterrence	One-off, symbolic act	The mildest sanction

In the execution of educational measures, the central role is played by the Probation and Mediation Service, established on 1 January 2001; however, its activity begins already during the preparatory proceedings. Within this framework, the probation officer prepares a social inquiry report, assesses potential risks, and makes a recommendation to the prosecutor or judge regarding the appropriate measure.

Educational measures essentially fulfil the requirement that the imposition of sanctions, and their nature, should take place primarily with due regard to the interests and proper development of the young person. In practice, however, disparities in opportunities provided by large cities and rural or smaller settlements can be problematic – for example, with regard to accredited programmes available within the framework of the probation programme.

The primary objective of protective measures, alongside the protection of society, is to positively shape the juvenile's psychological, moral, and social development when deviant behaviour is involved. These measures are applied where the previously mentioned educational measures are insufficient, but punishment is either unavailable or not considered appropriate.

The protective measures are:

- protective treatment,
- security detention,
- forfeiture and confiscation of property,
- protective education.

Protective treatment is applicable if the commission of the offence can be traced back to the youth's mental illness or addiction. In such a case, inpatient or

outpatient care for the offender may be prescribed, partly for the treatment of the juvenile and partly for the protection of the community.

Within the framework of security detention, the juvenile is placed in a closed, high-security institution. This measure is applicable to offenders displaying severe psychological disorders for whom protective treatment does not appear sufficient and who, furthermore, cannot be managed within the framework of traditional penal execution.

The primary goal of the forfeiture of a thing or property is to eliminate the financial motivation for crime; in this context, the withdrawal of tools used in the commission of the offence is involved on the one hand, and the confiscation of assets or material goods derived from the offence on the other.

Protective education is one of the most specific institutions of the Czech juvenile criminal justice system and is arguably the most drastic measure involving deprivation of liberty, executed in a special educational institute. At the same time, among protective measures it is the only one applicable exclusively to juveniles. Section 22(1) of the Act contains a taxative list of the conditions under which the court may order it. This is possible if the upbringing of the juvenile in their own family environment is seriously neglected or their behaviour displays such serious disorders that it cannot be managed within the family environment.

Table 2: Protective Measures in the Czech Juvenile Justice System

Type of measure	Legal basis	Objective	Nature of the measure	Specifics of application
Protective treatment	Section 21	Treatment of mental illness or addiction	Therapeutic/medical	Applicable if the commission of the offence can be traced back to illness or addiction
Security detention	Section 21	Protection of society	Security-oriented/isolative	Applicable only in particularly justified cases
Forfeiture and confiscation of property	Section 21	Elimination of the financial motivation for criminal activity	Property-related/pecuniary	Withdrawal of assets or material gain related to the offence
Protective education	Section 22	Removal of the young person from a high-risk environment	Educational and protective	Applicable in cases of neglect or insufficient family circumstances

Although the Czech legislature frequently uses the term “education” with regard to the measures regulated within the scope of protective measures, in reality it is not the educational function that primarily prevails in these cases, but rather

the deprivation or restriction of liberty, thus producing a situation functionally similar to traditional imprisonment.

Penal measures applicable to juveniles are ultima ratio sanctions, which can also be found in regulations governing adults, but in the case of juveniles they take a milder form. In this context, Section 24 of the Code contains a taxative list of possible penal measures, which are as follows:

- community service,
- pecuniary penalty,
- conditionally suspended pecuniary penalty,
- forfeiture and confiscation of property,
- prohibition of undertaking activities,
- prohibition of keeping and breeding animals,
- expulsion,
- house arrest,
- prohibition of visiting sports, cultural, and other social events,
- suspended sentence of imprisonment,
- unconditional imprisonment.

Community service is the type of alternative sanction in Czech criminal law most frequently applied in practice ([Mlynaříková, 2025](#)). The Code specifically regulates the minimum and maximum duration of the measure, ranging from 50 to 150 hours. A further important requirement is that the offender's opinion regarding the measure must be sought before the order imposing it, and the adjudicating court must take into account the offender's health condition as well as employment opportunities, for instance whether there are sufficient workplaces in the offender's place of residence or its vicinity ([Mlynaříková, 2025](#)).

Pecuniary penalties may be applied to a limited extent against juveniles: a fundamental requirement is that the young person concerned must be engaged in gainful activity and thus possess an independent income. The pecuniary penalty is defined in daily rates, with a maximum of 365 days. Furthermore, based on Section 29(1) of Act No. 218/2003, there is a possibility of suspending the execution of the pecuniary penalty for up to three years, which can serve as a powerful motivation for the person concerned. The reason for this is that, if the person concerned does not commit a new offence during the probationary period, they are exempted from paying the penalty. In practice, however, this measure is rarely applied, as a significant proportion of juveniles do not possess independent income. For example, in 2023 juveniles committed over 1,700 offences in the Czech Republic, of which a pecuniary penalty was imposed in only seven cases ([Paseková, 2024](#)).

Within the framework of the prohibition of undertaking activities, the court typically prohibits the juvenile from engaging in activities related to the criminal

offence, for example the prohibition of practising a profession if the juvenile previously worked or studied in the field in which the offence was committed, although the prohibition of any other specific activity is also possible. The legislature set the maximum duration of this at five years. The Act specifically names a special form of prohibition, which the adjudicating court may apply if an offence related to animals has been committed, for example animal cruelty.

The possibility of expulsion exists only if the juvenile of foreign nationality does not possess stable family ties within the territory of the Czech Republic.

In the course of penal measures, the juvenile may also be obliged not to leave their home or place of residence for a specified period (house arrest). This is a suitable alternative to imprisonment, as, although freedom of movement is restricted, it allows the sanction to be served within the person's accustomed family environment.

It is also possible to prohibit attendance at certain events, which is typically applied by the court if the commission of the offence is linked to a particular event.

In the case of a suspended sentence of imprisonment, the execution of imprisonment is suspended for a minimum of one year and a maximum of three years. This measure is frequently applied alongside other measures, such as probation supervision, thus providing both an opportunity and a framework for improvement for the young person, while simultaneously maintaining the possibility of deprivation of liberty should the youth's lifestyle not change in a positive direction. In this way, the legislature intended to reinforce the ultima ratio nature of actually executed imprisonment, which may be applied only as a last resort in cases of serious offences.

The system of penal measures – specifically the lower sentencing ranges and the wide array of alternative sanctions replacing deprivation of liberty – fulfils the requirements of child-friendly justice. The rules discussed above faithfully demonstrate that the legislature champions a primarily education-focused approach, relegating retribution to the background.

As can be seen, the rehabilitative approach plays a central role in the Czech juvenile criminal justice system. Section 3(1)–(2) of Act No. 218/2003 establishes as a fundamental principle that the objective of sanctions against juveniles is the restoration of disrupted social relations, the facilitation of the juvenile's family and social integration and reintegration, and the prevention of further legal violations.

Table 3: Penal Measures in the Czech Juvenile Justice System

Type of measure	Legal basis	Objective	Nature of the measure	Specifics of application
Community service	Section 26	Reparation to the community	Active obligation	Duration ranges between 50 and 150 hours
Pecuniary penalty	Section 27	Assumption of financial responsibility	Pecuniary/property-related	Applicable only if the juvenile possesses independent income
Forfeiture	Section 30	Elimination of the financial motivation for criminal activity	Pecuniary in nature	Withdrawal of assets or material gain related to the offence
Prohibition of undertaking activities	Section 26	Prevention of recidivism	Restrictive in nature	Duration may be up to five years
Expulsion	Section 26	Departure from the territory of the country	Obligation to depart	Duration may be up to five years
House arrest	Section 26	Restriction of liberty without removal from the accustomed environment	Restrictive in nature	Duration may be up to one year
Prohibition of visiting sports, cultural, and other social events	Section 26	Prevention of disorder	Prohibition on attending certain events	Duration may be up to five years
Suspended sentence of imprisonment	Section 33	Deterrence from crime while maintaining the possibility of execution	Psychological deterrence	Duration may range from one to three years
Unconditional imprisonment	Section 31	Isolation and intensive institutional resocialization	Deprivation of liberty	Execution separate from adults

By setting the minimum age of criminal responsibility at 15 years, the Czech Republic ensures that children under this age cannot be subjected to criminal proceedings; at the same time, it does not disregard the deviant behaviour of such persons. The settlement of cases involving those under 15 within civil proceedings and the application of educational measures serve as an excellent example of the protective approach towards children, offering a suitable solution for incorporating the child-friendly requirements of criminal regulation.

The legislature also kept this approach in mind when creating the sanction system, emphasizing the avoidance of traditional punishments whenever

possible. This is reflected in the *ultima ratio* nature of retributive sanctions and the requirement that the imposition of sanctions must take into account, among other factors, the young person's age, maturity, social background, and the gravity of the act. These requirements did not necessarily prevail in early Czech criminal policy; however, the currently effective regulation reflects a strong shift towards restorative justice.

The effective criminal regulation of the Czech Republic has established a multi-tiered sanction system in juvenile cases, creating the flexibility to provide alternatives that can be appropriately tailored to the offender's personality. This flexibility is also evident in the fact that the court, having regard to all the circumstances of the case, may apply multiple measures concurrently at its discretion. Furthermore, it provides the opportunity for the decision-maker, acting on the basis of free discretion and taking into account individual needs, to select the measures most suitable for the offender.

As previously mentioned, the Czech legislature consciously strives to prioritize non-custodial solutions, and, in the spirit of this philosophy, numerous alternatives to traditional incarceration are available both during the criminal proceedings and at the level of the execution of punishment. On this basis, it can be stated that the Czech system of penal sanctions regarding juveniles is built upon modern, child-centred principles. The educational and reintegration-oriented approach is clearly delineated at both the legislative and practical levels.

5. Procedural Guarantees

Act No. 218/2003 is not merely a code of substantive law; accordingly, it also contains detailed special procedural provisions regarding juveniles.

In the Czech legal system, the Youth Court, which forms part of the ordinary court system, has exclusive jurisdiction to conduct criminal proceedings initiated against juveniles. In this system, juvenile cases may be heard only by judges who have participated in special training at the Judicial Academy (Mejstříková, 2023). As a general rule, proceedings are conducted by the court competent according to the juvenile's residence (Salmonová, 2012), thus helping to ensure that the juvenile remains in their own social environment and thereby prioritizing the requirements of child-friendly justice. The advantage of proceedings before the court of residence is that this court acts with due regard to local conditions, can cooperate effectively with the relevant local authorities (e.g. the child-protection authority), and can furthermore make the execution of the punishment or measure imposed on the juvenile more effective.

However, the Czech legal system recognizes exceptions to this primary rule of jurisdiction: if the residence cannot be established, or if the interests of the juvenile justify the conduct of proceedings by a court other than the one competent by residence (*Nejvyšší státní zastupitelství*, 2009). In such cases, the legislature provides for the possibility of transferring the case, a mechanism that has been further refined in practice. In Court Decision No. R 11/2009, the Supreme Court stated that the transfer of the case is not automatic, and that judicial discretion is based on two criteria: primarily the interests of the juvenile and, secondarily, the expediency of conducting the proceedings.

It also deserves mention that, with regard to the composition of the adjudicating court, Amendment Act No. 319/2024, which entered into force on 1 January 2025, altered the role of the lay element in proceedings involving juveniles. This provision states that criminal proceedings conducted at the lower court level – at District Courts – are conducted by a single judge without the participation of lay judges (*Sakařová*, 2020), which may ultimately make the proceedings faster. It is clear from the provision that proceedings conducted before Regional Courts, however, continue to be heard by a panel.

A special guarantee in proceedings involving juveniles is the mandatory nature of legal representation. Section 42a of the Code regulates this and provides that the juvenile must have defence counsel at the earliest possible stage of the criminal proceedings. This same section also establishes the rule regarding the duration of mandatory defence. According to this provision, in special cases – on the basis of a decision of the adjudicating judge or the prosecutor – mandatory defence may be maintained until the completion of the 21st year of the young person concerned, if this is justified in view of the young adult's "level of intellectual and moral maturity, as well as the circumstances of the case", as stated in Section 42a(2) of Act No. 218/2003.

The issue of publicity is also of paramount importance from the perspective of the best interests of juveniles. While the conduct of the trial is not public, the pronouncement of the judgment takes place in public, as declared by Section 53 of Act No. 218/2003, with the restriction that it is prohibited to publish in the media any data regarding the juvenile from which the juvenile's identity could be established.

In addition, the authorities have a duty to ensure that the juvenile receives information appropriate to their age concerning the proceedings involving them and their rights, a requirement also reinforced by EU Directive 2016/800.

One of the most sensitive issues in proceedings is the deprivation of liberty, which the Act treats according to the principle of ultima ratio. Accordingly, the legislature defined the maximum length of detention as significantly shorter

than in the case of adult offenders: as a general rule, it may last for two months and, in the case of a particularly serious offence, up to six months. These deadlines may be extended only once in the preparatory proceedings and once in the court stage, by an additional two or six months respectively, pursuant to Section 47 of Act No. 218/2003.

Serious concerns have arisen in practice regarding the applicable deadlines and their review. The regulation applicable to adults in the Czech Code of Criminal Procedure states that the court is obliged to review the necessity of detention every three months; failing this, the accused must be released. However, Act No. 218/2003 does not contain a specific review deadline with regard to the detention of juveniles.

This problem culminated in 2020, when the authorities ordered the detention of the juvenile P. Spišák on suspicion of having committed such serious acts as robbery, grievous bodily harm, and attempted murder ([Spišák v. Czech Republic](#)). After spending three months in detention, he submitted a request for release, arguing that the three-month review requirement prescribed by the Code of Criminal Procedure had not been complied with. The first- and second-instance courts rejected this argument, on the basis that Section 72(1) of the Code of Criminal Procedure was inapplicable to juveniles and that, since the accused was suspected of committing particularly serious offences, his detention could last up to six months without a judicial decision. This position was shared by the Supreme Court and the Constitutional Court as well.

Subsequently, the accused brought the case before the European Court of Human Rights. The Court found that Section 47(1) of the Juvenile Justice Act placed juveniles at a disadvantage compared with adult defendants under Section 72(1) of the Code of Criminal Procedure, since the latter provided more favourable rules for adults in detention proceedings than those applicable in juvenile cases ([Nejvyšší soud, 2025](#)). As a consequence of that judgment, an amendment to Act No. 218/2003 is currently in progress, intending to supplement the regulations governing juveniles with provisions on mandatory review ([Ministry of Justice of the Czech Republic, 2026](#)).

Upon analysing the Czech criminal procedural regulation, the legislature's intention to spare youths displaying deviant behaviour from proceedings in the traditional sense becomes clearly apparent, thus prioritizing educational principles and the possibility of reparation. In line with this, it provides for several alternatives – although these are not applicable exclusively to juveniles, they offer excellent opportunities for diversion from the path of criminal proceedings.

Conditional discontinuance of prosecution is the most frequently applied diversionary tool in cases involving juveniles, the detailed rules of which – including the conditions for its application – are regulated by the Czech Code of Criminal Procedure. Accordingly, the court or the prosecution service may decide on the conditional discontinuance of the proceedings if the accused:

- has admitted the act,
- has remedied the harm caused by the crime – whether financially or in another form of reparation – and, furthermore,
- is considered likely to achieve a positive outcome on the basis of the young person's personality and circumstances.

Alongside the conditional discontinuance of the proceedings, the Probation and Mediation Service monitors the youth's lifestyle throughout, as well as whether they observe the obligations and rules of conduct potentially prescribed for them. If the probationary period governing the conditional discontinuance elapses successfully, the proceedings must be regarded as permanently discontinued; concomitantly, the youth is exempted from the disadvantages of a criminal record. Otherwise, the proceedings may be continued against them.

Another form of diversion from criminal proceedings is settlement, through which the legislature seeks to encourage the parties involved in the proceedings to reach an agreement. A specific element is that, beyond admission and reparation, or the restitution of unjust enrichment, the offender is obliged to pay a specified sum for public purposes. The role of the Probation and Mediation Service is significant here as well: it assists in mediation between the parties and may make recommendations regarding the conditions of the settlement (Ourednickova et al., 2008). While settlement may be advantageous for the offender, the victim, and the community alike, practice shows that its application in cases involving juveniles is negligible. The reason for this can primarily be traced back to the difficulties of fulfilling the financial condition, given that, at a young age, the individual usually does not possess an independent income or sufficient financial means.

Among diversionary tools, there exists a solution applicable exclusively to juveniles; thus, unlike the previously mentioned measures, it is regulated by Act No. 218/2003. Withdrawal from prosecution is possible only in cases of minor offences punishable by imprisonment of no more than three years, provided that “criminal proceedings would not be expedient, and punishment is not necessary to deter the juvenile from further legal violations”, as declared by Section 70(1) of Act No. 218/2003. This legal institution allows for the termination of proceedings even in cases where the conditions for conditional discontinuance are not met (e.g. in the absence of an admission); however,

practical experience indicates that its application has shown a declining trend in recent years.

In proceedings initiated against juveniles, and during diversionary measures, the Probation and Mediation Service, operating under the direction of the Ministry of Justice and regulated by Act No. 257/2000, plays a prominent role in the Czech Republic. In the Czech model, the organization participates not only in the execution of sanctions but also acts as an active participant in the entire procedure from the very initiation of proceedings, of which the police and the prosecution service are obliged to notify it without delay.

Pursuant to Section 56 of Act No. 218/2003, a detailed social inquiry report is prepared during the proceedings, covering the juvenile's personal, family, and social background, as well as their current living situation. The preparation of this report falls within the responsibilities of probation officers. Section 56(3) of the Act further sets out the minimum required content of the report. Accordingly, it must include information on the juvenile's age, level of maturity, attitude towards the offence, and readiness to repair the harm caused or address its consequences. It must also cover the juvenile's family circumstances, including their relationship with their parents, the degree of parental influence, and their connections with the wider family and immediate social environment. In addition, the report must contain relevant information on school attendance, conduct, and performance, or, where applicable, workplace behaviour, together with an overview of previous offences, measures imposed, their implementation, and the juvenile's conduct during that process.

Beyond preparing the social inquiry report, an important task of the probation officer is the preparation of mediation; at the same time, they may initiate the application of conditional suspension by the prosecutor and strive to create a settlement between the offender and the victim.

Should the case nevertheless proceed to the court stage, the probation officer plays a significant role there as well, endeavouring to ensure that the court does not focus merely on the objective gravity and legal classification of the act, but also takes into account the offender's personality and circumstances. To this end, the officer presents the social inquiry report in detail and may make a recommendation regarding which measure, in their view, would most effectively serve the offender's resocialization (Ourednickova et al., 2008). As mentioned during the discussion of sanctions, probation officers also play a prominent role during the execution of individual measures, throughout which they monitor the juvenile's life and, in many cases, take an active role therein.

Similar to the substantive-law provisions, the fundamental objective of the Czech Republic's rules on juvenile criminal proceedings is the protection of

children's rights; consequently, the legislation incorporates numerous explicitly child-friendly elements.

The establishment of specialized judicial forums for juvenile cases, along with rules distinct from those applicable to adults, aims to shield young people from the detrimental effects of traditional criminal proceedings, placing primary emphasis on rehabilitation and education (Coufalová, 2018).

Child-friendly justice requires that the child receive adequate legal assistance. The rules regarding mandatory legal representation serve as procedural guarantees and fully comply with the requirements laid down in the UN Convention on the Rights of the Child and the guidelines of the Council of Europe. Following the recent emergence of the need to provide mandatory defence not only for persons who have reached the age of criminal responsibility but also for children under the age of 15 (International Commission of Jurists, 2021), the extension of the relevant regulations has made the Czech juvenile criminal framework particularly notable.

The involvement of the Probation and Mediation Service during proceedings, the possibility of mediation, and the prosecutorial diversion introduced by the 2024 amendment are positive examples of restorative-justice principles, which fit perfectly within the framework of child-centred justice. The primary aim of these measures is not to punish the youth for their conduct, but to help them understand the consequences of their actions and to provide an opportunity for reparation at the earliest possible stage of the proceedings. Diversion options in the Czech legal system are solutions that decidedly prioritize the interests of the younger generation. This is supported by practical experience; according to reports from the Probation and Mediation Service, the recidivism rate is lower among juveniles involved in successful diversion than among those subjected to traditional criminal proceedings (Dünkel et al., 2015). This further validates the child-friendly nature of the Czech criminal justice structure.

It is also worth mentioning that Czech law allows for the expungement of the criminal record following the service of the sentence or upon reaching the age of majority (Czech Criminal Law, n.d.). This contributes to ensuring that a poor decision made in youth does not stigmatize the individual for life. The requirement to restrict or exclude the public during proceedings serves the same purpose, offering effective protection for the youth involved.

Based on the above, it can be concluded that the Czech Republic's regulation of juvenile criminal proceedings prioritizes the best interests of the child in numerous respects and fulfils the fundamental requirements of child-friendly justice.

6. Conclusion

The juvenile justice system of the Czech Republic demonstrates a distinct developmental trajectory, in which a retribution-focused approach has gradually been superseded by a child-centred perspective that prioritizes educational considerations. The historical overview has shown that the criminal-law assessment of deviant behaviour among young people has always been regarded as a more sensitive domain than that of adult offenders; however, current legislation now consciously strives to uphold the principle of the best interests of the child.

The analysis of the prevailing regulations revealed that significant dilemmas regarding the age of criminal responsibility persist to this day. Nevertheless, both substantive and procedural provisions have been designed to prioritize the healthy development of the group in question, although the possibility of employing repressive measures remains available. Consequently, the role of judicial practice is pivotal in ensuring that legal frameworks effectively serve the objectives of social reintegration. The prominent role assigned to the Probation and Mediation Service throughout the proceedings is intended to facilitate this process.

In summary, the Czech juvenile justice system constitutes a framework that may serve as a model for other legal jurisdictions in many respects. However, it is crucial to emphasize that the establishment of child-friendly justice requires not merely isolated legislative measures, but rather legal development and legal application that continuously adapt to societal changes. Interventions concerning juvenile offenders must not be limited to the de-escalation of punitive measures; rather, the primary objective must be to ensure that these children mature into responsible, law-abiding adults who form a productive part of society.

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