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JUVENILE CRIMINAL LIABILITY IN THE REPUBLIC OF MOLDOVA: MITIGATED REGIME AND EDUCATIONAL ORIENTATION

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Abstract

The article analyzes the legal regime of criminal liability for minors in the criminal law of the Republic of Moldova, highlighting its distinct character compared to that applicable to adults. This form of liability is based on the need to protect the developing person and on the recognition of their reduced level of psychological and social maturity. Consequently, the sanctioning system applicable to minors is characterized by limitation (in terms of age and incrimination), strong individualization, differentiation (educational measures and punishments), and humanization (reduced punishments, educational measures); it is primarily educational rather than repressive in orientation.

An essential element is the age of criminal responsibility, which determines the applicability of criminal norms and reflects the minor's reduced capacity for discernment. Likewise, the purpose of criminal liability is predominantly educational and oriented toward social reintegration, in contrast to the repressive and retributive character specific to adults. In this context, the limitation of categories of punishments applicable to minors and the substantial reduction of sentencing limits are noteworthy. The individualization of the sanction gains increased importance, being adapted to the age and personality characteristics of the minor, and the execution of punishments pursues the same educational goals.

A central element of the criminal regime for minors is the possibility of applying educational coercive measures, either as an alternative to punishment or as a substitute for criminal liability, depending on the gravity of the act and the minor's personality. Overall, juvenile criminal liability constitutes an autonomous institution, based on the principle of proportionality and primarily oriented toward prevention and social reintegration.

Keywords: minor, minority, criminal liability, criminal punishment, age of criminal responsibility, purpose of juvenile criminal liability, sanctioning system for minors, individualization of the punishment applied to the minor, educational coercive measures, execution of punishments applied to minors, release of the minor from criminal liability, release of the minor from punishment.

RĂSPUNDEREA PENALĂ A MINORILOR ÎN REPUBLICA MOLDOVA: REGIM ATENUAT ȘI ORIENTARE EDUCATIVĂ

Abstract

Articolul analizează regimul juridic al răspunderii penale a minorilor în dreptul penal al Republicii Moldova, evidențiind caracterul său distinct față de cel aplicabil persoanelor mature. Această formă de răspundere este fundamentată pe necesitatea protejării persoanei aflate în dezvoltare și pe recunoașterea nivelului redus de maturitate psihică și socială. În consecință, sistemul sancționator aplicabil minorilor se caracterizează prin limitare (sub aspectul vârstei și incriminării), individualizare accentuată, diferențiere (măsuri educative și pedepse), umanizare (pedepse reduse, măsuri educative); orientare preponderent educativă și nu represivă.

Un element esențial îl constituie vârsta răspunderii penale, care determină aplicabilitatea normelor penale și reflectă capacitatea redusă de discernământ a minorului. De asemenea, scopul răspunderii penale

este predominant educativ și orientat spre reintegrare socială, în opoziție cu caracterul represiv și retributiv specific adulților. În acest context, se remarcă limitarea categoriilor de pedepse aplicabile minorilor și reducerea substanțială a limitelor de pedeapsă. Individualizarea sancțiunii capătă o importanță sporită, fiind adaptată particularităților de vârstă și personalitate ale minorului, iar executarea pedepselor urmărește aceleași finalități educative.

Un element central al regimului penal al minorilor îl constituie posibilitatea aplicării măsurilor de constrângere cu caracter educativ, fie ca alternativă la pedeapsă, fie ca substitut al răspunderii penale, în funcție de gravitatea faptei și de persoana minorului. În ansamblu, răspunderea penală a minorilor constituie o instituție autonomă, bazată pe principiul proporționalității și orientată prioritar spre prevenție și reintegrare socială.

Cuvinte-cheie: minor, minoritate, răspundere penală, pedeapsă penală, vârsta răspunderii penale, scopul răspunderii penale a minorului, sistemul sancționator pentru minori, individualizarea pedepsei aplicate minorului, măsurile de constrângere cu caracter educativ, executarea pedepselor aplicate minorilor, liberarea minorului de răspundere penală, liberarea minorului de pedeapsă.

Introduction. Juvenile delinquency is a component part of crime as a whole, while simultaneously possessing its own specificity and distinct characteristic features. The problem of juvenile delinquency has always been one of the most serious and topical, being determined by the particularities of the psychological and moral development of minors, their social immaturity, and being directly linked to the continuous development of society [1, p.256-257].

The specificity of the criminal phenomenon among minors raises particular problems regarding prevention and control, as its causality involves an interaction with a multitude of factors, such as: the particularities of the social-psychological development of minors; an insufficient level of socialization; inadequate psychophysical, age, and social maturity; distorted perceptions of moral priorities; and specific character traits (irascibility, instability), making them easily susceptible to influence from “informal leaders” and adults, etc. [2, p.690]. Here, we note that the age of the minor determines a series of psychological particularities and instability caused by the process of personality formation, the physical and intellectual development of the individual, and puberty. At this age, minors are too categorical, irascible, violent, unbalanced, and incapable of evaluating situations while considering all circumstances; they lack social life experience and do not fully understand the social significance of their conduct—which is dangerous to social values—nor the significance of the sanctions that might be applied to them.

Relative to the age and living conditions of minors, the acts they commit naturally present, as a rule, a less serious degree of social danger than those committed by adults. However, relative to the biopsychical state of minors, the means of criminal legal coercion, primarily punishments, appear poorly suited for achieving the purpose of the law in relation to juvenile offenders. These means of coercion tend toward the re-education of the adult offender, whereas for juvenile offenders, what is required is not re-education (the reconstruction of previous education), but rather an initial education through appropriate means [3, p.217].

All of the aforementioned factors have led our legislator to fundamentally regulate the criminal liability of minors, particularly through the adoption and application of special provisions and a sanctioning system for minors, distinct from those concerning the fight against adult criminality. Furthermore, it should also be mentioned that criminal legislations throughout history have contained special provisions for minors, both regarding the age at which criminal liability began and the criminal punishments to which they were subjected (which were lighter than those for adults) [4, p.302].

Methods and materials applied. The present research is based on a complex theoretical-legal approach to the institution of juvenile criminal liability within the criminal

law of the Republic of Moldova. In conducting the study, general and special legal research methods were used, particularly the methods of analysis and synthesis, the systemic method, the comparative method, and the interpretive method (grammatical, logical, and teleological) of the relevant legal norms.

The method of analysis allowed for a detailed examination of the provisions of the current Criminal Code regarding the criminal liability of minors, while the method of synthesis facilitated the integration of the results into a unified vision of the applicable legal regime. The comparative method was used to highlight the particularities of the national regime in relation to European standards and the general principles of contemporary criminal law. Simultaneously, the systemic method contributed to highlighting the interdependence between the analyzed legal institutions.

The empirical and normative material of the research includes the provisions of the Criminal Code of the Republic of Moldova, related normative acts, as well as relevant legal doctrine. Furthermore, doctrinal sources and specialized studies addressing the issue of juvenile criminal liability from both theoretical and practical perspectives were utilized.

The research is based on a qualitative analysis of the normative and doctrinal framework, aiming to identify the particularities, principles, and purposes of the sanctioning system applicable to minors, in order to highlight its distinct character and its predominantly educational orientation.

Discussions and results obtained. Criminal liability of minors, according to the current Criminal Code, presents certain particularities based on the necessity of protecting the person in formation and the recognition of their reduced level of psychological and social maturity compared to mature persons. Compared to mature persons, the criminal liability of minors is characterized by limitation (in terms of age and incrimination), accentuated individualization, differentiation (educational measures and punishments), humanization (reduced punishments, educational measures), and a predominantly educational rather than repressive orientation. Overall, national legislative solutions confirm that minority does not exclude criminal liability but confers upon it a mitigated legal regime, adapted to age particularities and oriented toward preventing juvenile delinquency through predominantly educational means.

Through its predominantly educational and social reintegration orientation, the criminal liability of minors distinguishes itself fundamentally from the criminal liability of mature persons, which has a predominantly repressive and retributive character. This differentiation does not constitute an unjustified privilege but an expression of the principle of proportionality and the increased protection of the person in formation.

In doctrine, it has been constantly emphasized that the criminal treatment of minors does not represent an arbitrary derogation from the principle of equality before the criminal law, but a differentiated application of the principle of proportionality, adapted to the minor's real capacity for criminal liability [3, p.217-218].

A first essential particularity of the criminal liability of minors consists in the age of criminal responsibility [5, p.32]. While mature persons are criminally liable for any offense, minors have limited criminal liability: from 14 years old – only for offenses expressly provided by law (Art. 21 para. (2) Criminal Code), and from 16 years old – under general conditions (Art. 21 para. (1) Criminal Code). Below the age of 14, criminal liability is excluded. This differentiation reflects the position of the legislator according to which the capacity to awareness of the consequences of the act is incompletely developed in the minor.

The court of law is obliged to establish exactly the age of the minor (day, month, year of birth), because their age represents a circumstance that must be proven and con-

stitutes a mandatory condition for criminal liability [6, p.367].

The specificity of the criminal liability of minors is also manifested in the special approach through which the legislator assesses the offenses committed by minors and their personality when establishing the state of recidivism [7, p.450-451]. Thus, according to Art. 34 para. (5) lit.a) Criminal Code, criminal records for offenses committed during minority are not taken into account when establishing the state of recidivism.

Substantial differences are also found in terms of the purpose of criminal liability. If in the case of adults criminal liability predominantly pursues social retribution and general prevention, in the case of minors the purpose is mainly educational and for social reintegration. Our legislator starts from the premise that the minor can be corrected more effectively through education than through severe criminal coercion.

A third particularity concerns the limitation of the categories of punishments applicable to minors. The legislator has established a restricted sanctioning system for minors, excluding punishments incompatible with the status of a person in the process of formation. A limited number of punishments apply to minors, excluding punishments incompatible with their age, including life imprisonment (Art. 71 para. (3) of the Criminal Code) or unpaid community service for persons who have not reached the age of 16 (Art. 67 para. (4) CC). Life imprisonment cannot be applied to minors, as the minor's personality is not definitively crystallized in an antisocial sense, being always susceptible to rehabilitation.

The criminal law in force does not establish any particularities for applying the penalty of a fine to minors. However, when applying the penalty of a fine to a minor, the principle of the personal nature of liability must be considered, according to which only the person who committed an act provided for by criminal law intentionally or through imprudence is subject to criminal liability and punishment, and in no way any other person (Art. 6 CC). The fine will be applied to the minor if they have a real possibility to pay it from their own sources, so that the minor understands the essence of the punishment applied so that it achieves its purpose [8, p.33].

Punishments such as deprivation of the right to hold certain positions or to exercise a certain activity, deprivation of the right to drive means of transport or the cancellation of this right, the withdrawal of a military or special rank, of a special title, of a qualification (classification) degree and of state distinctions have little relevance in the case of juvenile offenders, because they are almost never applied to minors by virtue of the fact that minors aged between 14 and 18 cannot meet the qualities mentioned in the respective norms; consequently, they do not have those rights of which they can be deprived or which can be withdrawn through the court sentence [9, p.466]. In contrast, mature persons may be subject to the full spectrum of punishments provided by the Criminal Code.

The current system of punishments directs the courts to analyze the circumstances of the case in detail, to take into account the person of the minor, to elucidate the causes of their commission of the offense, and to establish a punishment sufficiently effective both for the correction of the offender, for the realization of the goals of general prevention, and for the restoration of social equity [10, p.482].

This normative option reflects an objectively justified differentiation, compatible with Art. 16 of the Constitution, and corresponds to the requirements of the European Court of Human Rights regarding the differentiated treatment of minors in relation to adults. In the case of *T. v. United Kingdom*, application No.24724/94, Judgment of December 16, 1999, the Court emphasized that minors cannot be subjected to a sanctioning regime identical to that of adults, as their capacity for understanding and participation in the process is structurally different [11]. The Court held that simply holding a minor

criminally liable is not, in itself, contrary to the Convention, but the procedure must be adapted to the age and capacity of the child; the public trial, the intimidating atmosphere, and the complexity of the procedure prevented the minor's effective participation in the judgment. The Court emphasized the principle that the minor must be able to "participate effectively" in the process to benefit from the guarantees of Art. 6 of the European Convention on Human Rights. The judgment is fundamental for the development of standards regarding juvenile justice; the enshrining of the states' obligation to adapt criminal procedure to the age and maturity of the minor; and the definition of the concept of effective participation in the trial.

Another important particularity consists in the substantial reduction of the sentencing limits provided by law for minors compared to adults. This reduction targets the duration of the prison sentence, being an expression of the recognition of the minor's diminished capacity for culpability.

According to Art. 70 para. (3) Criminal Code, when establishing the prison sentence for a person who, at the date of the offense, had not reached the age of 18, the prison term is established from the maximum punishment provided by criminal law for the offense committed, reduced by half. At the same time, the final punishment established for a concurrence of offenses regarding minors cannot exceed the term of 12 years and 6 months (Art. 84 para. (1) of the Criminal Code), and in the case of a cumulative sentence, the final punishment regarding minors cannot exceed the term of 15 years (art. 85 para. (1) of the Criminal Code).

From a doctrinal perspective, the reduction of the amount of the punishment does not constitute unjustified leniency, but expresses the reduction of imputability, determined by the incomplete development of discernment and self-control. The European Court of Human Rights reaffirmed this thesis in the case of *Blokhin v. Russia*, Grand Chamber, 2016 [12], stating that the state's reaction to juvenile delinquency must be proportional, individualized, and adapted to the particularities of the minor's age, emphasizing that the application of repressive measures of a quasi-criminal nature, without adequate procedural guarantees, is incompatible with Art. 6 and Art. 5 of the European Convention, as well as with the requirements for the special protection of the child in conflict with the law.

The Particularity of Individualizing the Minor's Punishment. Judicial individualization of the punishment acquires, in the case of minors, a qualitatively superior dimension, the court being obliged to analyze not only the act and the form of guilt, but also the psychosocial profile of the minor, the family environment, the level of education, the degree of influence exercised by other persons, and the concrete circumstances of the commission of the offense. Individualization of the minor's punishment is broader and more flexible than the individualization of the punishment in the case of mature persons.

In solving this issue, the court of law, in addition to the general criteria set out in Art. 75 of the Criminal Code, will also take into account the circumstances provided by Art. 475 para. (1) of the Criminal Procedure Code, established during the criminal investigation and the trial of the case (the minor's age; the conditions in which the minor lives and is educated, their degree of intellectual, volitional, and psychological development, the particularities of character and temperament, their interests and needs; the influence of adults and other minors on the minor; the causes and conditions that contributed to the commission of the offense).

According to Art. 475 para. (3) of the Criminal Procedure Code, the criminal investigation body, the prosecutor, or, as the case may be, the court of law orders the drafting of

the pre-sentence psychosocial evaluation report of the minor, i.e., a complex analysis of the bio-psycho-sociology of the minor.

The minor's behavior is often the result of the environment, not of a stable criminal choice. Therefore, the judge must evaluate whether the act is the result of a real criminal urge or of age-related showmanship, the influence of the entourage, or educational deficiencies. Imprisonment becomes a measure of ultima ratio.

In the process of individualizing the punishment, the court is obliged to take into account, in the case of minors, the exact age, living and educational conditions, the influence of the family environment, and the level of psychological development—elements that do not have the same legal relevance in the case of adults.

In addition, minority constitutes a mandatory legal mitigating circumstance, unlike the situation of mature persons. According to Art. 76 para. (1) lit.b) Criminal Code, when establishing the punishment, the commission of the offense by a minor is considered a mitigating circumstance. At the same time, the minority of the person who committed the offense, in accordance with Art. 79 para. (1) Criminal Code, is considered an exceptional circumstance, a fact which gives the court the right to apply to the minor a punishment below the minimum limit provided by criminal law for the respective offense.

The punishment applied to the minor is, necessarily, milder. When establishing the minor's punishment, the court, in its judgment, is to argue each of the indicated circumstances (Art. 75 Criminal Code, Art. 475 Criminal Procedure Code) with an indication of the evidence that confirms or, as the case may be, refutes them, to give an assessment of the pre-sentence psychosocial evaluation report of the minor and, in case it does not agree with the conclusions and proposals in the report, it will motivate their rejection [8, p. 33].

Applying the death penalty [Note: usually "pedeapsa cu închisoare" in the text refers to imprisonment] or imprisonment to a minor must be the court's last solution and only if another punishment will not achieve its purpose [8, p.34]. In the same vein, in the Decision of the Plenum of the Supreme Court of Justice regarding judicial practice in criminal cases regarding minors No.39 of November 22, 2004, point 19, it is indicated that all measures provided by law should be taken to apply to the minor defendant a non-custodial punishment, or to establish a milder punishment than that provided by law (Art. 79 Criminal Code) [6].

1. Particularity of the Execution of Punishments. Through the particularities of the execution of punishments applied to minors by the court, priority is given to the execution of the prison sentence, as a form of criminal reaction with maximum impact on the minor's development, without excluding the existence of special execution rules also in the case of other criminal punishments applicable to this category of persons.

The execution of the prison sentence applied to minors, as a priority, targets the special detention regime of minors; execution of the punishment in institutions separate from adults; the emphasis on education, training, and social reintegration, not on repression; the reduced duration of punishments and the possibility of their review; adaptation of the execution regime to age particularities. According to Art. 72 para. (5) of the Criminal Code, minors execute the prison sentence in detention centers for minors and young people, taking into account the personality of the convict, criminal records, and the harmful degree of the offense committed.

This approach is justified, because deprivation of liberty most intensely affects the development of the minor's personality. International standards and the jurisprudence of the European Court of Human Rights (for example, the cases *Blokhin v. Russia*; *Bouamar v.*

Belgium) [12; 13] treat the detention of minors as a measure of last resort, being admissible only in exceptional circumstances and, if it is proportional, adapted to age and, only if it pursues a real educational goal, not sanctioning, being accompanied by adequate procedural guarantees.

Particularities also exist in the case of minors performing unpaid community service (duration, schedule, compatibility with studies) or the penalty of a fine (correlation with the material situation and with the role of legal representatives).

2. Educational Coercive Measures as an Alternative Solution. A central element of the criminal regime of minors is the possibility of applying educational coercive measures, provided for in Art. 104 Criminal Code, either as an alternative to punishment (Art. 93 CC), or as a substitute for criminal liability (Art. 54 CC), depending on the gravity of the act and the person of the minor. Mature persons do not benefit from such an alternative mechanism, their liability being realized exclusively through punishment.

Educational coercive measures are criminal law sanctions applicable to minors under the conditions of the law, with a view to their education and re-education. These measures reflect the modern orientation of juvenile criminal law toward restorative juvenile justice and the minimum intervention of criminal repression. They do not aim at sanctioning in the classic sense (repression), but at correcting conduct and preventing recidivism, making the minor responsible and strengthening their social ties. Educational coercive measures are situated in an intermediate zone between criminal law and child protection, having a *sui generis* legal nature, since, although they are qualified by the Criminal Code as safety measures and constitute criminal law sanctions (Art. 98 para. (2) Criminal Code), they approach through their purpose and content the mechanisms specific to child protection, without being confused with either criminal punishments or extra-penal protection measures.

Our legislator gives priority to educational measures over punitive ones. According to Art. 75 para. (3) Criminal Code, for the commission of a minor or less serious offense, the punishment is applied to the minor only if it is assessed that taking the educational measure is not sufficient for the minor's correction. This provision enshrines the principle of the subsidiary and exceptional nature of the criminal punishment applied to the minor, in relation to educational coercive measures. The norm establishes a rebuttable legal presumption in favor of educational measures, in the sense that, for minor and less serious offenses, the primary criminal reaction must be non-penal, and the punishment constitutes *ultima ratio*. Therefore, the punishment represents an exceptional measure, admissible only if the court demonstrates, through rigorous motivation, that educational measures cannot ensure the minor's correction.

The purpose of Art. 75 para. (3) Criminal Code is double: a) protecting the best interest of the minor, avoiding unnecessary criminal stigmatization; and b) directing the criminal liability of minors toward education and social reintegration, not toward repression.

3. Release of the Minor from Criminal Liability with the Application of Educational Coercive Measures. The Criminal Code enshrines the possibility of releasing the minor from criminal liability, with the application of educational coercive measures, when the gravity of the act, the person of the minor, and the circumstances of the case allow the purpose of the criminal law to be achieved without pronouncing a conviction.

It follows from the provisions of Art. 54 Criminal Code that the application of release from criminal liability of minors is possible only in case of compliance with the following cumulative conditions: a) the offense is committed for the first time; b) the offense committed is minor or less serious; c) at the criminal investigation or at the trial of the case it

is established that the process of correcting the minor is possible without the perpetrator being subject to criminal liability, taking into account the recommendations of the resocialization services formulated in the social investigation report.

From a doctrinal perspective, this institution represents a justified exception to the principle of the inevitability of criminal liability; based on the idea that early criminal stigmatization is incompatible with the best interest of the child and with the objective of social reintegration.

4. Release of the Minor from Criminal Punishment. Distinct from release from criminal liability, criminal legislation also provides for the release of the minor from punishment, in situations where the court finds that the effective application of the punishment is no longer necessary. This solution presupposes the existence of a conviction, but the suspension or replacement of the execution of the punishment, considering the educational progress achieved (Art. 90 and 93 Criminal Code).

Although the Criminal Code of the Republic of Moldova does not enshrine an autonomous normative regime for conviction with conditional suspension of execution of the punishment for minors, the particularities of its application result from the systemic interpretation of art. 90 Criminal Code in conjunction with Art. 485 of the Criminal Procedure Code and with the special principles of the criminal liability of minors. Through the provisions of Art. 485 para. (1) CPC, conditional suspension is given a distinct status in the minor's process, which is confirmed by the text "the court is to examine the possibility of conditional suspension of execution of the punishment by the minor". This wording is not neutral, but establishes a positive procedural obligation of the court, transforming suspension into a priority option, not an optional-random one. Compared to adults, suspension is a faculty; compared to minors, suspension is a mandatory analyzed alternative, which represents the first essential particularity.

In the case of the adult, Art. 90 para. (1) Criminal Code operates with the criterion "it is not rational for them to execute the punishment", and in the case of the minor, this formula must be reinterpreted in light of Art. 75 para. (3) Criminal Code (priority of educational measures), and Art. 93 Criminal Code (release of minors from punishment), as well as the principle of the best interest of the child. Thus, the "irrationality of executing the punishment" in the minor is not primarily related to the gravity of the act, but to the level of psychosocial development, the capacity for education in the community, the role of the family and the social environment, and the potential for reintegration without detention.

The motivation of the sentence is more demanding in the case of the minor. Although Art. 90 para. (1) of the Criminal Code requires the motivation of the suspension in general, in the case of the minor, the court must additionally motivate why the suspension is sufficient for the educational purpose of the punishment, how the probation conditions contribute to the formation of licit conduct, and why isolation from society is not necessary.

According to Art. 90 para. (61) Criminal Code, in the case of sentencing the minor with conditional suspension of execution of the punishment, participation in the probation program is mandatory. This is the only express particularity in the Criminal Code. The difference from the adult is structural. For the adult, the probation program is optional, and for the minor it is mandatory and involves a structured educational intervention.

Although the Criminal Code does not provide for distinct probation conditions for the minor, in practice and doctrine it is necessary to avoid excessively restrictive conditions; formulating obligations in a language accessible to the minor; correlating obligations with schooling, psychological counseling, and family involvement. At the same

time, the “identical” application of conditions as in the case of adults would violate the principle of proportionality and the principle of individualizing the punishment. Conviction with conditional suspension of execution of the punishment represents the typical form of avoiding the minor’s detention. Its non-application must be explicitly justified, demonstrating why community measures are insufficient. Therefore, conditional suspension acquires, in the case of the minor, the character of a preferential measure, with a predominantly educational function, being necessarily accompanied by a probation program and subject to a more demanding standard of motivation and individualization than in the case of the adult.

Release of minors from punishment with the application of educational coercive measures is regulated by Art. 93 Criminal Code and detailed procedurally by Art. 485-486 of the Criminal Procedure Code. In material terms, Art. 93 Criminal Code establishes a presumption of preference for educational coercive measures (Art. 104 Criminal Code), when the minor has committed a minor, less serious, or serious offense and the court finds that the purposes of the punishment can be achieved without its execution. Release is not equivalent to the absence of criminal liability: the court pronounces a sentence of conviction, but substitutes the criminal punishment with educational coercive measures, appropriate to the age and personality of the minor.

If the Court of law has not applied the provisions of Art. 483 para. (5) of the Criminal Procedure Code, according to Art. 486-487 of the Criminal Procedure Code, it must examine, when adopting the sentence, first the possibility of releasing the minor from punishment in accordance with the provisions of Art. 93 of the Criminal Code. In this case, Art. 93 CC obliges the Court to examine the possibility of releasing the minor from criminal punishment not only for minor or less serious offenses, but also for serious offenses [8, p.31].

Thus, the court, when deliberating the sentence, must prioritize analyzing the possibility of releasing the minor from punishment, and in the situation where it establishes the conditions provided for in art. 93 Criminal Code, by adopting a conviction sentence, it orders the release of the minor convict from the criminal punishment and applies to them educational coercive measures provided for by Art. 104 Criminal Code (Art. 486-487 Code of Criminal Procedure).

Release from criminal punishment expresses the flexibility of the criminal reaction toward the minor, allowing its adjustment depending on the evolution of the subject’s personality, oriented toward education and re-education, social reintegration, and preventing recidivism, in accordance with international standards regarding the character of last resort of the custodial criminal punishment in relation to minors. As we have shown, deprivation of the minor’s liberty must be exceptional and protective.

A final essential particularity consists in the reduction of the criminal legal terms applicable to minors. The regime for minors is characterized by reduced terms regarding parole (conditional release) before the term (Art. 91 Criminal Code), the statute of limitations for criminal liability (Art. 60 Criminal Code), and the statute of limitations for the execution of the conviction sentence (Art. 97 Criminal Code).

For the application of parole before the term to minors, the fractions of the punishment that must be executed are smaller (at least one-third of the punishment term established for committing a minor or less serious offense or at least half of the term established for committing a serious offense), compared to the larger fractions in the case of adults (Art. 91 para. (6) of the Criminal Code).

The statute of limitations for criminal liability is reduced by half for persons who

were minors at the date of the offense (Art. 60 para. (7) Criminal Code). This reflects the idea that the social resonance of the act decreases faster, and the punishment applied late loses its educational function. The statute of limitations for the execution of the punishment is also reduced by half for persons who, at the date of the offense, were minors (Art. 97 para. (2) of the Criminal Code).

These reductions are justified doctrinally by the need to avoid the long-term consequences of criminal conviction that are disproportionately harmful to the minor, affecting their process of social formation. In the case of *Blokhin v. Russia* [12], the European Court of Human Rights emphasized that the effects of criminal repression on minors must be limited in time and intensity. The Court consolidated the standards regarding the protection of minors in criminal proceedings, stating that the deprivation of a child's liberty, in the absence of procedural guarantees and adequate medical care, constitutes concurrent violations of articles 3, 5, and 6 of the European Convention on Human Rights, emphasizing the state's obligation to adapt the justice system to the specific vulnerability of minors.

At the same time, the European Court of Human Rights formulated important standards, namely that the best interest of the child must be paramount; before detention, a medical assessment is necessary; children, especially those with disabilities, require increased procedural guarantees; the system must be adapted, not identical to that of adults.

Conclusions. The analysis of the legal regime of criminal liability of minors in the criminal law of the Republic of Moldova reveals the existence of an autonomous institution, based on the recognition of the bio-psycho-social particularities of the person in formation, on the principle of differentiating liability according to age and the level of psychosocial maturity of the subject of the offense, on the necessity for increased protection of the child, and on the priority orientation of the criminal reaction toward education, social reintegration, and prevention, and not toward repressiveness.

Compared to mature persons, minors benefit from a mitigated legal regime, characterized by the limitation of the sphere of criminal liability, the relativization of discernment, the humanization of sanctions, and the priority of educational coercive measures. The Criminal Code thus enshrines a coherent system, based on the principles of substantial differentiation from the regime applicable to adults, accentuated individualization, proportionality, humanism, and the best interest of the child, in accordance with constitutional and European standards. Minority does not exclude criminal liability, but confers upon it a distinct content and purpose, adapted to the developing personality of the perpetrator.

Proceedings against minors must be age-appropriate and guarantee effective participation. "Effective participation" implies that the minor is not just a spectator of the process, but a real participant, capable of understanding and exercising their rights. This wording, as already shown, comes from the jurisprudence of the European Court of Human Rights and refers to how a criminal trial or any judicial procedure involving a minor must be organized.

The limitation of the categories of punishments applicable to minors, the reduction of the term and amount of punishments, as well as the establishment of mechanisms such as release from criminal liability or from punishment, and the reduced terms for the statute of limitations and parole highlight the politico-criminal orientation toward reducing repression and favoring re-education.

In perspective, the efficiency of this regime depends on the consistent application of educational measures, the development of probation services, and the strengthening

of social reintegration mechanisms. In conclusion, the criminal liability of minors constitutes a special form, legally and criminologically justified, intended to protect the best interest of the child and to achieve the goals of the criminal law through appropriate and proportional means.

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