

Etusivu>Sinun oikeutesi>Alaikäisen oikeudet tuomioistuinkäsittelyssä Rights of minors in court proceedings

Bulgaria

1. The child's legal capacity

In Bulgaria the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 14.

2. Access to adapted proceedings

There is no specialisation in the area of child justice in general courts of justice. In courts where the staffing is sufficient to guarantee the principle of random allocation of cases judges are allocated to a civil and a criminal divisions and only deal with the respective cases. Divisions can be set up in regional and district courts, and the allocation of judges to them takes place at the discretion of the administrative head of the court.

Bulgarian legislation provides for a legal definition of a "child". A minimum age is also required to bear criminal liability and there are special rules governing imposing of sentences on minors. Within the meaning of the Child Protection Act "a child shall be any natural person who has not reached the age of 18". Minors are divided in two groups – from 14 to 16 years of age and from 16 to 18 years of age. Their criminal liability is mitigated compared to the adults' criminal liability, as the degree of mitigation is lower in the 16-18 age categories.

Minors who have attained 16 years of age can bear administrative liability under the Administrative Offences and Punishments Act and under special acts such as the Decree on Combating Minor Hooliganism.

3. Multidisciplinary aspects

All relevant organisations must coordinate their activities in order to obtain a comprehensive understanding of the children. The Child Protection Act regulates the competencies of the Child Protection Bodies, which are the State Agency for Child Protection, the Social Assistance Directorates at local level, the Minister of Labour and Social Policy, the Minister of the Interior, the Minister of Education and Science, the Minister of Justice, the Minister of Foreign Affairs, the Minister of Culture, the Minister of Health Care and the mayors of the municipalities.

4. Training of professionals

Professionals who are involved in the judicial process have to be qualified and with an extensive experience, especially of working with children. There are no any legal training requirements, but almost all of the specialists took qualification courses and trainings, which give them specific skills.

On the other hand, the social workers and policemen take part in different studies, seminars and meetings hosted by public institutions, NGOs, etc. The Social Assistance Agency, as a main governmental institution, which is responsible for implementing the policies for child protection, on a local level, organises many trainings for improving the qualifications of its officials - the social workers.

5. Best interests of the child

According to the Child Protection Act securing the best interest of the child is one of the main principles of protection. Child's best interest is the main principle for the children involvement in judicial proceedings. National legislation gives the children an opportunity to have a proactive role, expressing an opinion and taking part in making decisions.

6. Access to remedies

The Child Protection Act provides that the child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

Children without legal capacity can address complaints and legal appeals through their parents or legal representatives, who exercise their rights on their behalf. The legislation provides an opportunity for these representatives to make decisions, keeping child's best interest. In case of child victim, who decide not to prosecute, a prosecutor can make this on his/her behalf, starting a pre-trial proceeding.

There are no specific rules on legal aid for children. The common rules of the Law on Legal Aid apply.

7. Future developments

The Ministry of Justice with the participation of broad scope of stakeholders drafted a new *Law on the Diversion from Criminal Proceedings and Imposition of disciplinary measures for minors*. The aim of the draft Law is to encourage the lawful behaviour of minors in conflict with law and to secure support for their integration into society through the imposition of disciplinary measures and for their inclusion in appropriate educational programs. In accordance with international standards and best practices the draft Law governs the new system of measures to ensure secondary and repeated offences prevention for minors with illegal behaviour.

An essential element of the proposed legislative changes is the envisaged possibility of using mediation. This will allow the introduction of recovery (restorative) justice in diverting juveniles from criminal proceedings in order to achieve the removal of damages caused by the unlawful conduct and to the extent possible to restore the relationship between the offender, the victim and society.

8. Family life

The Bulgarian legislation of the adoption has been revised in consequence of the ratification of the Convention on protection of children and co-operation in respect of intercountry adoption (Hague Convention). The entry of adoptions and adoptive parents in special registers was introduced as a condition for the admission of full adoptions with the amendments. An exception to this rule was anticipated at the adoption of a child of a spouse and the adoption of a grandchild by a grandfather and a grandmother.

According to the Bulgarian legislation the adoption may be either "full" or "simple":

In case of **full adoption**, between the adopted child and his/her descendants – on one part and the adopting parent and his/her relatives– on the other, shall occur rights and obligations such as between relatives by origin, and the rights and obligations between the adopted child and his/her descendants with their relatives by origin shall be interrupted.

In case of **simple adoption**, rights and obligations shall occur as between relatives by origin only between the adopted child and his/her descendants – on one part and the adopting parent – on the other, and the rights and obligations between the adopted child and his/her descendants with their relatives by origin shall be kept. The parental rights and obligations shall pass on the adopting parent.

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