https://doi.org/10.63177/isc.2026.16
review paper
submitted: 11.04.2026.
accepted: 05.05.2026.

Tanya KARAGYOZOVA, Ph.D.
Chief Assistant, Faculty of Law, St. Cyril and St. Methodius University of Veliko Tarnovo, Republic of Bulgaria, tanya.karagyozova@ts.uni-vt.bg, ORCID: 0009-0000-2787-7425.

COMPARATIVE ANALYSIS OF MEASURES AGAINST JUVENILE DELINQUENCY IN BULGARIAN AND SERBIAN CRIMINAL LAW

Summary

The trends of increasing juvenile crime require adequate preventive measures. These measures must be tailored to the specific characteristics of offenders in view of their young age.

This article examines issues related to the criminal liability of juvenile offenders. It discusses which persons are criminally liable and what types of punishments can be imposed on juveniles under Bulgarian criminal law. A comparison is also made with the legal framework under the Serbian Criminal Code.

Proposals are made for the introduction of new types of sanctions aimed at the prevention and deterrence of juvenile crime.

Key words: juvenile, punishment, criminal liability, prevention.

1. INTRODUCTION

The upward trend in juvenile delinquency necessitates an adequate approach characterized by a preventive nature. According to data from the National Statistical Institute (NSI), in 2024, the number of juveniles convicted of crimes was 781, representing 3.6% of all convicted people (https://www.nsi.bg/press-release/prestapleniya-obvinyaemi-i-osadeni-lica-7911). In the same year, 5,609 minors and juveniles were registered by the Child Pedagogical Rooms for anti-social behavior, of whom 1,391 were minors (under the age of 14) and 4,218 were juveniles (https://www.nsi.bg/statistical-data/155/498); 4,835 were registered for criminal

offenses (https://www.nsi.bg/press-release/protivoobshtestveni-proyavi-i-prestapleniya-na-maloletnite-i-nepalnoletnite-7912).

Bulgaria and Kosovo are both situated within the Balkan region, so they share similar legal traditions. Serbian criminal law has modernized the framework of juvenile criminal liability through the enactment of a specialized law. In contrast, the applicable statutory framework in Bulgaria remains the **Criminal Code** and the **Juvenile Delinquency Act** (Law on Combating Anti-Social Behavior of Minors and Juveniles).

The object of the present study is the differences in the criminal liability of juvenile offenders under Bulgarian and Serbian criminal law.

2. MEASURES AGAINST JUVENILE DELINQUENCY IN BULGARIAN CRIMINAL LAW

According to Bulgarian criminal law, persons who have reached the age of majority and who have committed a crime while in a state of sanity are criminally liable. Individuals reach majority upon attaining the age of 18. Sane (capable) persons are those who, at the time of the commission of the act, were able to understand the nature and significance of their actions and to control their actions.

According to the Bulgarian Criminal Code (Criminal Code, 1968, art. 31, para. 2) juveniles may also be criminally liabile. Juvenile is defined as person who have reached the age of 14 but have not reached the age of 18 at the time of the offense. These individuals may be criminally liable only if, at the time of the act, they were capable of understanding its nature and significance and of controlling their behavior. This capacity is subject to an ad hoc assessment in each specific case.

Minors – defined as persons who have not attained the age of 14 – are not criminally liabile (Bulgarian Criminal Code, 1968, art. 32).

In case that a minor commits an anti-social act, an educational measure is imposed pursuant to a special legal act. A similar legal position applies when an anti-social act is committed by a juvenile who, at the time of the commission ot a crime, was not able to understand the nature or significance of the act or to control their conduct.

Penalty, within the meaning of the Criminal Code, is consistently pursues specific objectives. Penalty is imposed with the aim of reforming and re-educating the convicted individual toward compliance with the law and established moral standards (good morals), serving as a deterrent against recidivism by depriving the offender of

the opportunity to commit further crimes. Furthermore, it is intended to exert an educational and deterrent effect upon other members of society (general prevention). It is explicitly provided that penalty shall not aim to inflict physical suffering or degrade human dignity.

With regard to juveniles, the legislature has established a specific objective – foremost, that they be re-educated and prepared for socially useful labor. This objective is specialized; however, it does not exclude the scope of the general goals in Art. 36 of the Criminal Code. Notably, the objectives pursued in sentencing juveniles are primarily directed toward individual prevention (special deterrence).

The Bulgarian legislature has taken the age of juveniles into account by restricting the types of penalties that may be imposed for crimes committed by them. According to Bulgarian Criminal Code (Criminal Code, 2005, art. 63) these penalties are invariably reduced according to explicitly prescribed statutory rules. No distinct types of penalties are provided specifically for juveniles; rather, the Bulgarian legislature has narrowed the range of penalties applicable to adults. Consequently, juveniles cannot be imposed with the penalties "life imprisonment" and "life imprisonment without parole", as well as any property penalties – fines and confiscation of property. So, only four types of penalties may be imposed on juveniles – imprisonment, probation, deprivation of the right to practice a specific profession or activity, and public censure (Criminal code, 2005, art. 62).

The most severe penalty that may be imposed on a juvenile is "imprisonment." It means the compulsory isolation of the convicted person in facilities for custodial sentences – prisons, juvenile reformatories (correctional homes), and prison hostels. This type of penalty is invariably for a fixed term. The maximum term prescribed for juveniles is ten years. Incarcerated juveniles are housed in reformatories, with separate facilities for boys and girls (Criminal Code, 2006, art. 65). Provisions are made for them to continue their education and to engage in labor. The time spent in labor and attending educational classes by incarcerated juveniles is credited as working days toward the reduction of their sentence.

The legislature prescribes that juveniles are highly susceptible to external influence and that, in practice, their social environment within reformatories consists of other offenders. Consequently, the law mandates that the overall resocialization of incarcerated juveniles be conducted under conditions that maximize opportunities for contact with the outside world, including family, individuals who exert a positive influence, volunteers, and representatives of non-governmental organizations.

The next most severe punishment that can be imposed to the juveniles is "probation." It is the newest type of penalty in Bulgarian criminal law, introduced in 2002. As pointed out by Proffesor Stoynov (Stoynov, 2019, 480) probation constitutes a complex of control and reformative measures without imprisonment, which may be imposed together or separately. For this reason, the legislature consistently provides for imprisonment and probation as alternative sanctions. The Bulgarian Criminal Code (Criminal Code, 2006, art. 42a) prescribes six types of probation measures: mandatory registration at the current address; mandatory periodic meetings with a probation officer; restrictions on freedom of movement; inclusion in professional qualification courses, community impact programs; corrective labor; and unpaid community service. These measures are detailed extensively within the Law. It is important to note that when the court imposes a penalty "probation," it is due to impose the first two probation measures: mandatory registration at the current address and mandatory periodic meetings with a probation officer. The remaining four measures are imposed at the court's discretion, with a view to achieving the objectives of penalties under Art. 36 of the Criminal Code.

The law provides for the possibility that, in case of non-compliance with an imposed probation measure, the court may substitute it with another more appropriate measure or commute the sentence of probation to imprisonment.

This penalty may be imposed on juveniles only after they have attained the age of 16, as the law stipulates that for persons under the age of 16, probation shall be substituted with public censure.

The provision of Art. 42a, Para. 4 of the Bulgarian Criminal Code introduces an explicit prohibition against imposing two of the probation measures – corrective labor and unpaid community service – on juveniles under the age of 16. This regulatory framework appears redundant, insofar as for persons aged 14 to 16, probation is invariably substituted with the penalty of "public censure."

The next penalty in order of severity is the deprivation of the right to practice a certain profession or activity (Criminal Code, 1968, art. 37). This penalty is imposed in cases prescribed by law if the exercise of the respective profession or activity is incompatible with the nature of the crime committed. This penalty may also be imposed on juveniles only after they have reached the age of 16. This legislative approach is logical, given that under Bulgarian law, individuals can work after attaining the age of 16.

Reaching the age required by law is not the only requirement; for a person to be deprived of their rights, they must have first acquired them. This narrows the scope

of application for this type of penalty. In Bulgaria, one may have a driving license for a moped at the age of 16. As previously noted, you have to reach this age to work. These are the most frequent instances in which this type of penalty is applied.

Finally, the most lenient penalty that may be imposed on a juvenile is "public censure" (Criminal Code, 1968, art. 52). In essence, it constitutes a formal public denunciation of the offender. This kind of penalty is detailly analyzed by Yordanova (Yordanova, 2022, 121-127) .It is executed by announcing the verdict before the relevant collective, through the press, or via another appropriate manner in accordance with the provisions of the verdict. For juveniles, this most frequently occurs by reading the verdict aloud in their school before their classmates. As Proffesor Nenov (Nenov, 1992, 270) the legislature's intent in introducing this type of penalty was to exert a moral influence upon the convicted person. He should be publicly reprimanded for the act he committed.

How effective this penalty is today is a debatable question. At the time of its inception, societal values were different. The commission of a crime has always been morally reprehensible behavior, and the fear of such acts being brought to the attention of the community undoubtedly served as a deterrent. Conceptions of dignity were different. Public evaluation resonated across all aspects of human life, and maintaining one's reputation has been extremely important.

Nowadays, however, reality has changed. Human dignity appears to have lost much of its former significance.

Given the growing trend toward the erosion of moral values within society, the penalty of public censure is arguably no longer fit to achieve the primary objectives of punishment - reformation and re-education. In this sense, it appears to be obsolete. The reality is such that the execution of this penalty, particularly among juveniles, is more likely to be viewed as a cause of pride rather than a source of shame. Of course, this conclusion is not universally applicable. I would like to believe that there are still those who are brought up to be worthy. Nevertheless, once a juvenile has committed a crime, it is difficult to talk about the presence of high moral values. Consequently, this penalty proves to be ineffective.

The penalty of public censure may be imposed on all juvenile offenders.

The legislature has provided for the possibility, under certain conditions, for juveniles to be exempted from criminal liability. This provision applies when the juvenile was capable of understanding the nature and significance of the act and of controlling their actions at the time of committing a crime, but acted recklessly or infatuated, provided that the crime is not characterized by high degree of public

danger. Under this hypothesis, the individual is not criminally liable. Instead, an educational measure shall be imposed. The court is not due to apply this provision. This is a legal opportunity for the court, which must assess whether educational measures are appropriate for the specific individual.

The provision of Art. 64 of the Criminal Code stipulates that if the sentence imposed on a juvenile is imprisonment for less than one year, ordered to be served effectively, the juvenile shall be released from serving the sentence and an educational measure shall be imposed. In this case, the court has no discretionary power and is due to apply the provision. According to the restrictions prescribed in this article, this rule applies when the juvenile has not committed another crime and has not yet reached the age of majority at the time the sentence is pronounced.

The regime for the juvenile offenders as regulated under Bulgarian criminal law has been briefly examined. For comparison, the regime under the Criminal Code of Serbia will be analyzed.

3. MEASURES AGAINST JUVENILE DELINQUENCY IN SERBIAN CRIMINAL LAW

The framework concerning criminally liable persons under the Serbian Criminal Code is concise. It provides that an act committed by an insane (incapable) person is not a crime. Insanity occurs when the perpetrator does not understand the significance of their actions or is unable to control them (Serbian Criminal Code, 2005, art. 23).

Although not explicitly stated, the Criminal Code of Serbia applies only to adults. Art. 112, Para. 8 of the Serbian Criminal Code defines minors as those who have not reached 14 years of age. The Code refers to them as "children." They are not criminally liable under Serbian criminal law, although this is also not explicitly stated within the Criminal Code itself.

Juveniles are defined as persons who have attained the age of 14 but have not reached the age of 18 (Serbian Criminal Code, 2005, art. 112, s. 9 and s. 10). They are subject to criminal liability. However, their liability is regulated outside the Serbian Criminal Code, within a special law – the Law on Juvenile Offenders and Criminal Protection of Juveniles. The historical development of the criminal law regime for juveniles under Serbian criminal law is analyzed by Blagić (Blagić, 2025, 53–165).

This special law distinguishes between several categories of offenders based on their age:

First, there are the so-called "children." These are minors who have not attained 14 years of age. Under Serbian law, they possess absolute criminal immunity (non-liability). Only protection measures administered by social welfare authorities are applicable to them, rather than criminal sanctions.

The second category consists of the "younger juveniles." This refers to a person who, at the time of the commission of the act, has reached the age of 14 but is under 16 years old. These individuals are criminally liable, yet they cannot be sentenced to imprisonment. Only educational measures (vaspitne mere) may be imposed upon them.

The third category includes the "older juveniles" (Stariji maloletnici). These are persons who, at the time of the offense, have attained the age of 16 but are under 18 years old. They are fully criminally liable in accordance with the rules provided in the special law. Educational measures may be imposed on these individuals, but in cases of serious crimes – for which more than 5 years of imprisonment are provided for under the general procedure, they may be sentenced to juvenile prison (maloletnički zatvor).

The fourth category, which is entirely unknown to Bulgarian criminal law, is that of so-called "young adults" (Mlađa punoletna lica). This includes all persons who, at the time of the offense, have attained 18 years of age but are under 21 years old. If such a person commits a crime as an adult but has not yet reached the age of 21, and the court determines that their psychological development corresponds to that of a juvenile, the court may impose educational measures instead of adult imprisonment.

For the commission of an offense punishable by a fine or a term of imprisonment of up to five years, juveniles may be subject to so-called "educational orders" (or pedagogical orders). Notably, these may be issued by a juvenile prosecutor or a juvenile judge. The primary advantage of this mechanism is the possibility of avoiding judicial procedure, as long as perpetrator admits its guilt.

The special law regulates the application of these "educational orders" with the specified objective of influencing the proper development of the juvenile and strengthening their personal responsibility, thereby preventing the commission of future criminal acts (Law on Juvenile Offenders and Criminal Protection of Juveniles, 2006, art. 6).

It is further stipulated that the objective of criminal sanctions against juveniles is to influence the development and strengthening of their personal responsibility, their education, and the proper formation of their character. This is intended to ensure the reintegration of juveniles into the society through supervision, the provision of

protection and assistance, and the securing of general and vocational training. Regarding juvenile prison, in addition to the objectives set forth in Paragraph 1 of this Article, the aim is to exert a more profound influence on the juvenile offender – as well as on other juveniles – to deter the commission of future offenses (Law on Juvenile Offenders and Criminal Protection of Juveniles, 2006, art. 10). The theoretical aspects of the objectives of punishment are analyzed by Grujić (Grujić, 2025, 103–118).

The preventive effect toward which these measures are directed is evident.

The law provides five different types of educational orders:

The first one is an agreement with the victim aimed at the full or partial restitution of the harmful consequences of the act through compensation, apology, labor, or other means. This constitutes a form of conciliation procedure between the perpetrator and the victim, whereby the offender is required to repair the damages caused.

The second one is regular school attendance or regular attendance at work. Depending on whether the offender is a student or an employee, two different measures are provided. Both the advancement of education and the improvement of professional qualifications have a significant preventive effect on crime, as they develop a sense of responsibility and discipline.

The third educational order consists of unpaid participation in the work of humanitarian organizations or projects of social, local, or environmental significance. Such participation simultaneously influences the personality, the social environment, and the conduct of young people. Volunteering builds compassion, empathy, and a sense of responsibility. Engaging in meaningful activities limits the free time which is often a factor in criminal behavior.

The fourth educational order involves subjecting to appropriate examination and withdrawal from addiction caused by the use of alcoholic beverages or narcotic drugs. There is no doubt that alcohol and drug addictions facilitate, and sometimes directly cause, the commission of crimes. Treating the cause of dependency is of paramount importance in crime prevention.

The final educational order is inclusion in individual or group treatment at in an appropriate health institution or counseling center. This applies to individuals in need of medical or psychological intervention.

Depending on the nature of the offense committed, the juvenile prosecutor or the juvenile court may impose more than one educational order concurrently.

The foregoing analysis demonstrates that the five types of educational orders are fully aligned with their intended objectives.

Alongside these educational measures, the court may impose one or more special obligations on a juvenile. Article 14 (Serbian Criminal Code, 2005, art. 14) regulates the special law prescribes ten such obligations - To apologize to the victim; to provide restitution for the damages caused within their own means; to attend school regularly or maintain employment; to train for a profession suited to their abilities and interests; to participate without remuneration in the work of humanitarian organizations or projects of social, local, or environmental content; to engage in specified sporting activities; to undergo relevant assessments and rehabilitation for dependency caused by alcohol or narcotics; to participate in individual or group treatment at a relevant healthcare facility or counseling center and comply with the prescribed treatment programs; to attend vocational training courses or prepare for and sit examinations testing specific knowledge; and not to leave their place of residence or stay without the consent of the court and the specific approval of the guardianship authority.

The most severe penalty that may be imposed on a juvenile is "juvenile imprisonment." The determination of this sentence is analyzed by Simović, M., & Simović, V. (Simović, M., & Simović, V.,2025, 65–83). This penalty may only be imposed to individuals who have attained the age of 16. The prerequisites for its imposition are that the penalty provided for the committed offense have to be more than five years of imprisonment, and that, due to the high degree of public danger, the imposition of an educational measure would not be justified. The sentence is served in a juvenile prison. The minimum term of the imprisonment is six months and the maximum is five years; however, exceptionally, it may be up to ten years if the committed offense is punishable with by imprisonment for twenty years or a more severe sanction, or if the individual has committed two crimes each punishable by more than ten years of imprisonment.

It is noteworthy that imprisonment for juveniles is conceived as a measure of last resort (ultima ratio).

4. COMAPRISON BETWEEN THE SERBIAN AND BULGARIAN CRIMINAL LAW

From the analysis conducted, it is obvious that the Serbian model is more flexible, as it allows the state to avoid stigmatizing a young person with a criminal

record if they are willing to rectify their error through reconciliation, labor, education, or treatment. Conversely, the Bulgarian model is more formalistic, relying primarily on the reduction of penalty's terms, which does not invariably result in effective resocialization.

The Serbian Criminal Code provides a more detailed classification of criminally liable persons. The law distinguishes between "younger juveniles" (ages 14–16) and "older juveniles" (ages 16–18). This division determines the types of sanctions that may be imposed. For instance, juvenile prison cannot be applied to the first category.

The Bulgarian Criminal Code does not make such distinction explicitly regarding the perpetrator's age. Although, according to the age of the perpetrator, there is a difference in the type of penalties that can be imposed. The difference lies in the fact that according to our regulations, the regime for juveniles between 14-16 years of age cannot be characterized as more lenient.

The possibility for the prosecutor not to press charges at all if the young person consents to mediation, community service, or treatment – contributes to the timely imposition of sanctions for the offense. Bulgarian criminal law provides a similar mechanism under Art. 61 of the Criminal Code (release from criminal liability with the imposition of educational measures), but the procedure is cumbersome and invariably requires the involvement of a court or a specialized commission.

In contrast to Serbian criminal law, Bulgaria lacks specialized juvenile judges and juvenile prosecutors. The young age of these individuals necessitates a tailored approach and specialized expertise. Consequently, the legislative solution provided in Serbian law appears more appropriate.

The age-based distinction for so-called "young adults" is entirely unknown to Bulgarian criminal law. This approach in Serbian criminal law seems to be consistent and adequate. Introducing a similar framework in Bulgarian criminal law would be beneficial, especially considering that, according to NSI data, 20% of all criminal offenders are between 18 and 24 years old (National Statistical Institute (NSI) data: https://www.nsi.bg/press-release/prestapleniya-obvinyaemi-i-osadeni-lica-7911).

The maximum term for imprisonment is identical – 10 years. This is one of the few similarities between the two legal systems, alongside the principle that persons under the age of 14 are not criminally liable at all.

The analysis clearly demonstrates that the regulation of criminal liability under Serbian and Bulgarian legislation differs fundamentally. While the Bulgarian model remains focused on formal punishment with a reduction in terms, the Serbian model

prioritizes preventive measures outside the courtroom, thereby reducing the stigmatization of the young people.

The approach of the Bulgarian legislature to restrict the types of penalties applicable to juveniles is unproductive. The legislative intent to adapt penalties for juveniles – considering their fragile age, the lack of ingrained criminal habits, and their higher potential for reform – fails to yield the desired result. Paradoxically, adults can be subject to eleven different types of penalties to achieve the objectives of Art. 36 of the Criminal Code. In contrast, juveniles (aged 14–16) are limited to only two penalties: imprisonment and public censure, which, as previously noted, is obsoleted. Consequently, the most frequently imposed penalty for juveniles, particularly "younger juveniles," is imprisonment. This can hardly be described as a "lenient regime." Therefore, it is necessary to take legislative measures to improve and synchronize the system of penalties applicable to juvenile offenders in accordance with the main re-educational goal specified by the law.

A new chapter – "Penalties for Juveniles" – could be established within the Bulgarian Criminal Code to introduce new types of sanctions. A good example in this regard can be drawn from the Serbian legal framework. The five types of educational orders provided in the special law are tailored to the age and development of juveniles.

I would like to propose several other possibilities. Community restorative labor could be introduced, for instance, in cases of vandalism – where the perpetrators participate in repairing the damage they caused. Another option is to mandate participation in educational, social, or sporting activities. A third possibility concerns the execution of the sentence: probationary sentencing with a specialized educational plan, requiring the juvenile offenders to complete their education or acquire a qualification.

These penalties would have a stronger preventive effect compared to the current framework of the Bulgarian Criminal Code. In many cases, juveniles commit crimes not because of ingrained criminal habits, but due to a lack of social skills. Introducing these sanctions would facilitate the personal, social, and cultural development of these individuals. Only in case that such penalties fail to achieve the desired result should imprisonment be imposed. Imprisonment should be established as a measure of last resort, similar to the legislative approach of the Serbian Criminal Code.

Such amendments would contribute to achieving the goals of punishment for juveniles - prevention, re-education and preparation for community service.

LITERATURE

Blagić, D. 2025. MODELS OF CRIMINAL POSITION OF JUVENILES. Zbornik Radova Pravnog Fakulteta Univerziteta U Prištini, (1), pp. 153–165. Available at: https://doi.org/10.63177/zrpfpr.012021.09

Grujić, Z. 2025. THEORETICAL CONCEPTS ON THE GOALS AND PURPOSES OF PUNISHMENT. Zbornik Radova Pravnog Fakulteta Univerziteta U Prištini, 2024(1), pp. 103–118. Available at: https://doi.org/10.63177/zrpfpr.012024.06

Nenov, Iv. 1992. Nakazatelno pravo na Republika Balgariya: Obshta chast [Criminal Law of the Republic of Bulgaria: General Part]. Sofia.

Simović, M., & Simović, V. 2025. DETERMINING OF SENTENCE IN THE CONTEMPORARY CRIMINAL LAW OF THE REPUBLKA SRPSKA. Zbornik Radova Pravnog Fakulteta Univerziteta U Prištini, 2024(1), pp. 65–83. Available at: https://doi.org/10.63177/zrpfpr.012024.04

Stoynov, A. 2019. Nakazatelno pravo: Obshta chast [Criminal Law: General Part]. Sofia: Ciela.

Yordanova, T. 2022. Obshtestvenoto poritsanie v konteksta na balgarskoto nakazatelno pravo [Public Censure in the Context of Bulgarian Criminal Law]. DE JURE Journal, V. Tarnovo, Iss. 1, pp. 121-127. Available at: https://doi.org/10.54664/YLIZ3257

Др Тања КАРАЂОЗОВА*

УПОРЕДНА АНАЛИЗА МЕРА ПРОТИВ МАЛОЛЕТНИЧКЕ ДЕЛИНКВЕНЦИЈЕ У БУГАРСКОМ И СРПСКОМ КРИВИЧНОМ ПРАВУ

Сажетак

Овај чланак испитује растуће трендове малолетничке делинквенције и потребу за адекватним превентивним мерама прилагођеним специфичним карактеристикама починилаца кривичних дела у вези са узрастом.

Пре свега, размотрено је питање кривичне одговорности. Извршена је анализа тога које особе подлежу кривичној одговорности према бугарском и српском праву.

Друго, извршено је поређење различитих врста казни које се могу изрећи малолетним преступницима према бугарском и српском кривичном праву. Ово је најзначајнија разлика која је примећена између законодавстава две земље.

Треће, извршено је поређење између бугарског правног оквира и одредби у оквиру српског Кривичног законика.

На крају, дати су предлози за увођење нових врста санкција усмерених на ефикаснију превенцију, одвраћање и рехабилитацију малолетних преступника.

Кључне речи: малолетник, казна, кривична одговорност, превенција.

* Главни асистент, Правни факултет, Универзитет „Свети Кирило и Методије“ у Великом Трнову, tanya.karagyozova@ts.uni-vt.bg, ORCID: 0009-0000-2787-7425.