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Participation of Social Organizations in Juvenile Proceedings – Theoretical Foundations and Practice

Abstract: Juvenile law is a rather young branch of law. It was singled out just at the turn of the 19th and 20th centuries. From the very beginning, the juvenile law regulations could be distinguished into two dominant models: protective and restrictive. However, both of them did not fulfil the expectations and faced a wave of criticism. One of the consequences of this situation was the appearance of the "third road" of reaction to juvenile crimes – restorative justice. Under the regulations in force, in Poland juvenile matters are solved on the basis of the protective model. Since 2001 it has been enriched with elements of a restorative justice model such as mediation. Abovementioned regulations also provide a wide participation of social factor in juvenile matters but, as statistics show, with minimal relevance in practice. The article is a contribution to the discussion about causes of this minimal relevance and the possibilities of changing it, for instance, by enlarging the participation of social organizations in juvenile criminal cases.
Keywords: juvenile law, restorative justice, social participation, mediation, criminal law

Proceedings in cases involving minor perpetrators of criminal acts are a relatively young branch of law. Even though it has always been apparent that children breaking basic rules of community life have to be treated differently, there has not been a distinct system of a relevant procedure for hundreds of years. To a large degree, it was just connected with a comparatively insignificant social need to regulate this. In ancient times, children's legal disobedience was mainly a problem of a family head – traditionally a father – who was the only person authorized to administer internal justice (within the family). It was also a father who was externally responsible for the breaches of law committed by family members who did not enjoy full legal rights (a woman or child)[1]. During the time of a feudal social structure that was prevalent in Europe for centuries and was characterized by a domination of rural or

1 M. Cieślak, Od represji do opieki (Rzut oka na ewolucję zasad odpowiedzialności nieletnich), "Palestra" 1973, No. 1, p. 34.

small town forms of life, the situation was similar. Apart from the role of a father – a family head – and the ensuing right to punish he was authorized to, feudal local communities were characterized with strong mechanisms of internal control, which fulfilled their tasks within the sphere of upbringing and responding to undesirable phenomena occurring among children and youth quite well. Local community was then a basic, i.e. satisfactory in a broader scale, means of an efficient response to such phenomena. Children's criminal liability rarely appeared within the framework of the official justice system. It generally referred merely to cases of the so called "public order crimes", i.e. those that were perceived by the state authority as infringing public interest. Only a small number of cases of children who were publicly held liable for a prohibited act they committed evoked an apparent tendency to impose more lenient punishment. Death penalty and mutilation were particularly avoided while compensatory punishment was applied more often so that children could make up for their misconduct, or edifying penalties such as confinement in a monastery or penal colony where personal improvement is achieved through labour[2].

The actual problem of juvenile delinquency and the accompanying need to regulate it systematically appeared, in fact, as late as in the second half of the 19th century. The reasons for this phenomenon are rooted in several interrelated sources[3]. Undoubtedly, we should mention here political transformations originating in the French Revolution, which disseminated enlightenment ideas on the operation of a state and society. Nevertheless, the explosion of juvenile delinquency is mainly attributed to the Industrial Revolution[4]. Development of industry ensued a need to increase a number of people capable of working in factories. It was necessary to definitively abandon the feudal social structure embedded for centuries, free rural population and provide them with free movement and settlement in cities. Fast urbanization and a rapid increase of city population, often coming from different parts of a country, resulted in a breach of traditional social ties or bonds occurring in rural areas. Replacing farm work with industry labour changed family relations too. Undertaking work in factories, parents stayed far from their children who, this way, became excluded from the traditional system of control and supervision usually getting nothing in return. All of the above started to generate fruits in the form of a "phenomenon" of juvenile delinquency. This phenomenon was particularly significant in the American continent, where immense migrations of the 1880s and 1890s took an

2 *Ibidem*. Sources do not provide too much information about the trials of minor wrongdoers in Middle Ages or Renaissance – see more, e.g.: A. Walczak-Żochowska, Systemy postępowania z nieletnimi w państwach europejskich. Studium prawno-porównawcze, Warszawa 1999, p. 8 et seq.; B. Konarska-Wrzosek, Prawny system postępowania z nieletnimi w Polsce, Warszawa 2013, p. 35 et seq.; M. Korcyl-Wolska, Postępowanie w sprawach nieletnich na tle standardów europejskich, Warszawa 2015, p. 34 et seq.

3 B. Stańdo-Kawecka, Prawo karne nieletnich. Od opieki do odpowiedzialności, Warszawa 2007, p. 23 et seq.

4 M.H. Veillard-Cybulsky, Nieletni przestępcy w świecie, Warszawa 1968, p. 14; B. Stańdo-Kawecka, Prawo…, *op. cit.*, p. 23; M. Korcyl-Wolska, Postępowanie…, *op. cit.,* p. 19.

additional multicultural aspect (there were Russian, Italian, Irish, Jewish, Polish and Chinese migrants).

In the middle of the 19th century, criminal law was still influenced by the concept of retributive justice, which perceived punishment as ethical necessity[5] or logical imperative[6] and required guilt to be attributed to a perpetrator charged with a prohibitive act. Despite this, criminal law turned out to be helpless with regard to juvenile delinquency. It was difficult to talk about a perpetrator's act of good will in relation to this phenomenon; yet it was also difficult to ignore its range and escalation.

Thus it became clear that it required a separate and systemic study. Furthermore, distinguishing minor rights was also favoured by a slowly developing distinct perception of a child in social culture. Development of psychology and pedagogy in the second half of the 19th century provided necessary justification to the new approach to juvenile delinquency, and preventive and educational measures applied in relation to a minor offender[7]. Finally, legal positivism allowed to abandon the concept of punishment as necessary and just retribution in favour of the concept of penalty as a measure of perpetrator's correction and rehabilitation. These transformations led to the development of two opposite models of treating minor offenders: a justice model and welfare model[8].

The justice model of juvenile delinquency refers to the classic school of criminal law and assumes that a child can also be a subject of criminal liability if at least partial recognition can be attributed to him or her. Because children are not fully psychologically and morally developed, a form of their liability should be mitigated. Thus juvenile proceedings should focus on the establishment whether minor offenders committed a prohibited act, if guilt can be attributed to them and relevant punishment imposed in a form adequate to the deed's nature and a degree of guilt. The justice model assumes that juvenile proceedings are a special type of criminal proceedings. In consequence, minors must be provided with a possibility of enjoying basic litigation rights a defendant is entitled to, i.e. the right to defence and presumed innocence.

The welfare model, on the other hand, relies on a positivistic concept of crime perceiving its conditions in environmental factors. Thus a basic purpose of juvenile proceedings is not to punish minor offenders but improve their educational and living conditions in order to reverse the process of demoralization and put a child back on the path of rule and legal order. Such proceedings are not a special type of criminal proceedings. They do not entail the observance of the right to defence, presumed innocence or rules of adversarial proceedings. Their purpose is not to ill-treat a per-

5 Following I. Kant's theory of moral retaliation.

6 Following G.W. Hegel's theory of dialectic retaliation. See more about basic features of these concepts, e.g.: S. Prejsnar-Szatyńska, Problem uzasadnienia kary – analiza filozoficzna, "Probacja" 2014, No. 2, p. 99 et seq.

7 A. Mogilnicki, Uzasadnienie części ogólnej projektu Kodeksu karnego, Warszawa 1930, p. 30 et seq.

8 More about models of juvenile proceedings: B. Stańdo-Kawecka, Prawo…, *op. cit*., p. 25 et seq.; and from a slightly different perspective in: A. Walczak-Żochowska, Systemy…, *op. cit*.

petrator but, on the contrary, take care of him or her and protect them against further demoralization. A decision about the choice of the best educational and welfare measures in relation to a child who committed a crime should be based a wide analysis of their living conditions, educational environment, health condition, and a diagnosis of their personality features. Thus a decision-making process should embrace a broad cooperation with entities which allow to find out more about the child's environment and their psychological and health conditions. Courts do not have to be vested with sentencing, but if they have been entrusted with it, its form should be deformalized. Instead of penalties, the welfare model postulates application of correctional and educational measures marked proportionally (relatively) and modified in proportion to the ongoing rehabilitation progress. At the same time, referring to the child's educational conditions as a main source of their delinquency, the welfare system allows for a wider intervention in an earlier stage, i.e. not as late as after a child has already committed a crime. It envisages a possibility of undertaking appropriate intervention already in connection with manifestations of conduct which may lead to a crime in the future[9].

To the end of the 19th century, juvenile proceedings worldwide were mainly based on the justice model. Since the beginning of the 20th century, first in the American continent, then gradually in Europe, the justice model has started to give way to the welfare model[10]. At the beginning, however, starting from the 1970s first in the American continent, the third type of juvenile proceedings emerged, i.e. the system of restorative justice. The idea of restorative justice, brought up within the same manner in the criminal law for adults, derived from the conviction that the existing models of liability were inefficient[11]. They were criticized for high social costs and low efficiency. It was noticed that attempted endeavours to reconcile the idea of punishment as a means of retribution and correction entailed high prisonization and poor rehabilitation. The idea of rehabilitation itself was criticized for exempting a perpetrator from the responsibility for his or her conduct making the whole society responsible[12] instead, which in effect contributes to even more profound pathological behaviours. Professionalization of justice systems, which leads to the monopoly of state and its structures in handling of conflicts[13], was particularly criticized. In effect, neither perpetrators of a prohibited deed nor their victims receive what they should from the proceedings. A victim, treated solely as a source of information about facts,

9 American literature called conduct which may ensue a state response due to a minority of a perpetrator as "status offences"; in Poland such conduct embraces demoralization indicated in Art. 4 of the Act on Juvenile Proceedings.

10 More: M. Cieślak, Od represji…, *op. cit.,* p. 60; B. Stańdo-Kawecka, Prawo …, *op. cit.,* p. 37 et seq.

11 See more: H. Messmer, H.-U. Otto, Restorative Justice. Steps on the Way Toward a Good Idea, (in:) H. Messmer, H.-U. Otto (ed.), Restorative Justice on Trial, Pitfalls and Potentials of Victim – Offender Mediation. International Research Perspectives, Dortrecht – Boston – London 1992, p. 1 et seq.

12 W. Zalewski, Sprawiedliwość naprawcza. Początek ewolucji polskiego prawa karnego, Gdańsk 2006, p. 48.

13 N. Christie, Conflicts as Property, "British Journal of Criminology" 1977, No. 17 (reprinted in: M. Fajst, M. Płatek (ed.), W kręgu kryminologii romantycznej, Warszawa 2004, p. 174); M. Wright, Przywracając szacunek sprawiedliwości, Warszawa 2005.

has no possibility to be morally satisfied, just on the contrary, he or she is susceptible to secondary victimization. A perpetrator is deprived of a possibility of realizing moral consequences of his or her actions. What is more, he or she is not motivated to genuine repentance and long-term change of their conduct at all[14]. Therefore attention was paid to the need to search solutions which would, first of all, make a perpetrator of a prohibited deed a subject interested in liquidating the effects of social rule and order infringed in result of his or her conduct and, consequently, arise in him or her a genuine need to change; secondly, they would focus on an individual interest of the injured party in the proceedings who could be redressed for the harm incurred in result of a crime. These aims were found particularly important just with regard to juvenile proceedings, which carry a great risk of objectification of a perpetrator who is put in the role of a passive recipient of authoritatively imposed method of impact. Concurrently, due to the need to individualize such impact (influence) with educational needs of a minor offender, such proceedings, in principle, do not provide a place for the satisfaction of the injured party's interest. As a form of reconciliation of these two values, restorative justice seemed to be something which filled in a hole in the existing models of juvenile proceedings, which may be applied as a sort of a closing form, complementing the existing systems.

The binding model of juvenile proceedings in the Polish legal system which was adopted by the Act on Juvenile Proceedings of 1982[15] undoubtedly refers to the welfare model. Juvenile proceedings may be initiated if a child committed an offence (including tax offence), or if there are manifestations of demoralization. In principle, the proceedings are carried out on the basis of the provisions of the Code of Civil Procedure on guardianship cases, i.e. in non-litigious proceedings. All proceedings are carried out by the family court. There is no prosecutor and the injured party may only use exhaustively listed rights (generally focused on the right to information about the results of the proceedings and the right to prevent premature discontinuation of proceedings). The settlement of the case is based on the confirmed demoralization of a minor and the need to apply educational or correctional measures towards him or her, or impose punishment. Therefore only the fact that a minor committed an offence is not sufficient to apply designated measures. It must be confirmed that they are necessary for educational reasons. The Act on Juvenile Proceedings envisages a whole arsenal of measures implemented towards a minor, starting from a caution or warning, through injunction ordering specific conduct (including, e.g., redressing damage, carrying out specific service (work) or consideration for the benefit of the injured party or a local community, participating in appropriate educational, therapeutic or training courses, refraining from contact with specific environments or

14 M. Wright, Geneza i rozwój sprawiedliwości naprawczej, (in:) B. Czarnecka-Dzialuk, D. Wójcik (ed.), Mediacja. Nieletni przestępcy i ich ofiary, Warszawa 1999, p. 14 et seq.; N. Christie, Granice cierpienia, Warszawa 1991, p. 114.

15 Act of 26 October 1982 on Juvenile Proceedings (uniform text: Journal of Laws of 2014, item 382 as amended).

places, or giving up drinking alcohol), putting a minor on probation to be supervised by a probation officer, youth or other social organization, workplace, or a trustworthy person, implementing responsible supervision of parents or guardian, referral to a probation centre, social organization or youth correction, therapeutic or training institution, finishing with a decision to place a minor in a youth correction centre, professional foster family, or eventually a juvenile detention facility. A feature of the above measures is the fact their duration is not decided in advance. They may last either until a minor turns eighteen years old, or exceptionally, until he or she turns twenty one years old[16]. Thus a key stage herein are executive proceedings during which the family court may any time – whenever educational reasons imply this – change or reverse applied educational measures (Art. 79 of the Act on Juvenile Proceedings). Besides, flexibility of execution of the above measures is a typical feature of the welfare model.

The element of the justice model appears in connection with the fact that the family court may refer a perpetrator of the most serious crimes to the prosecutor (among others: homicide, a gang (group) rape or rape committed with particular cruelty, robbery, hostage taking, or intentional threat of public safety) who, at the moment of the crime, was over fifteen years old, in order to prosecute him or her in a criminal court. On the other hand, the element taken from the restorative justice model is a possibility of referring a perpetrator and victim to mediation[17], which was introduced to the Act on Juvenile Proceedings in 2001.

A core of the welfare model is wide community engagement in the process of responding to children criminal conduct. It can be implemented in different forms and various stages thereof. Firstly, within the very initiation or filtration of cases which will be subject to further proceedings; secondly, during these proceedings, and thirdly, during the execution of measures imposed against a minor.

Art. 4 of the Act on Juvenile Proceedings obliges everyone who learnt about a criminal act committed by a minor to report it to the police or family court, or other competent body. Whereas Art. 4 § 3 of the above Act obliges state institutions and social organizations which, in connection with their activity, learnt about a criminal act committed by a minor that is prosecuted ex officio to immediately report it to the family court or police as well as undertake urgent actions necessary to protect clues and evidence against their loss or deformation. The obligation envisaged in this provision is of a legal, not just social nature, and binds managers or administrators of a state institution or social organization; a failure to fulfil it may entail official or

16 Before a perpetrator turns 21 years old, possible enforceable penalties include: caution (warning), adjudicated probations or a decision to place a minor in correction facility – see Art. 73 of the Act on Juvenile Proceedings

17 Actually, mediation appeared in Polish juvenile proceedings already in 1996 in the form of experimental pilot programme initially carried out in district courts in 5 cities: Zielona Góra, Piła, Poznań, Skarżysko Kamienna and Warsaw – see more: B. Czarnecka-Dzialuk, Eksperymentalny program mediacji między nieletnim sprawcą a pokrzywdzonym. Podstawowe założenia i pierwsze doświadczenia, (in:) B. Czarnecka-Dzialuk, D. Wójcik (ed.), Mediacja. Nieletni przestępcy i ich ofiary, Warszawa 1999, p. 121.

administrative consequences including, in extreme cases when the obliged entity additionally acted as a public official, criminal law consequences (Art. 231 of the Criminal Code). In practice, it will most often involve duties burdening schools and school principals. It is worth remembering that a criminal act may also be any act which exhausts substantial essentials of a crime or tax crime but also of some exhaustively listed misdemeanours such as, e.g., theft or destruction of property of insignificant value (Art. 119 and 124 of the Code of Minor Offences in connection with Art. 1 § 2 point 2 of the Act on Juvenile Proceedings), nuisance or causing a scandal (outrage) in a public place (Art. 50 of the Code of Minor Offences). It seems that in some cases the obligation to inform the family court or police in the above form may appear too rigorous. The legislator did not envisage any possible verification of the need to make a relevant report by the obliged entities through, for instance, seriousness (burden) of a committed criminal act, or actual fear of the perpetrator's demoralization. It can be easily assumed that in a group of children there may occur numerous petty events or conflicts which formally exhaust the essentials of a misdemeanour or even crime, yet factually not necessarily providing objective justification for the court involvement. *De lege lata*, however, has no "backdoor" allowing such prior filtration of the need to initiate court proceedings by the state or social institution obliged to make such a report. Only the family court can make such a filtrating decision. What is apparent and characteristic about the welfare model is the fact that a criminal act committed by a minor does not prejudge that the court will decide to initiate and carry out proceedings at all. Pursuant to Art. 21 par. 2 of the Act on Juvenile Proceedings, the family court does not initiate proceedings and discontinues already launched proceedings fully or partly if there are no grounds to initiate litigation or carry it out within a specified scope, or if a decision to apply educational or correctional measures is futile. It is worth noticing that in 2005 family courts refused to initiate or discontinued proceedings launched due to suspected criminal act committed by a minor in 13141 cases, in 2010 – in 13627 cases, in 2012 – in 12237 cases, and in 2013 – in 10102 cases. At the same time, family courts decided, respectively, to refer cases of minors suspected of committing a criminal act to a session or hearing in 2005 in 38526 cases, in 2010 – in 35723 cases, in 2012 – in 30898 cases, and in 2013 – in 25618 cases[18]. It results from the above that in one third of cases, and in 2013 in nearly half of the cases initiated by the reported criminal act committed by a minor, the family court did not even decide to refer the case to a session. Perhaps it is so just because of the above mentioned rigorous nature of Art. 4 § 3 of the Act on Juvenile Proceedings which obliges state institutions and social organizations to notify family courts about each criminal act being committed. It is worth considering, therefore, whether we should not think about a more flexible mechanism of the assessment of the need to involve the court in the

18 Polish Statistical Yearbook of 2014, GUS, p. 165.

cases which are known in advance as trivial and do not generate a need to consider the application of educational measures.

As far as participation of community in juvenile proceedings is concerned, first of all, it should be pointed out that nowadays community participation is no longer envisaged in sentencing. Final elimination of lay judges from sentencing in juvenile cases occurred on 27 July 2007, when lay judges were abolished from corrective proceedings[19]. Lay judges had been earlier eliminated from sentencing in family and guardianship procedure. Currently, sentencing in juvenile cases is purely professional whereas possible participation of social factor in the proceedings results from extraordinary provisions. Those more important are embraced, in particular, by Art. 24 § 2 point 1 of the Act on Juvenile Proceedings. Pursuant to the above regulation, representatives of social organizations whose statutory objectives contain education of minors or support of rehabilitation (Art. 24 § 2 point 1 of the Act on Juvenile Proceedings) may carry out environmental surveys in exceptional situations. Moreover, under Art. 26 of the above Act, they may transfer a minor into the supervision of a youth organization or other social organization during pending proceeding as a temporary measure. A purpose of this institution is to facilitate undertaking of educational activities towards a minor even before the issue of a final decision when it is necessary due to the child's welfare and because of the need to launch actions to prevent his or her further demoralization immediately. As confirmed by available studies, in practice, however, such forms of cooperation are generally not used or used very rarely[20].

Taking into account the aspect of closing the stage of recognition, participation of social factor may be updated by referring to the mechanism envisaged by Art. 32j if the Act on Juvenile Proceedings. Namely, a family court may hand over a minor's case to the school he or she attends upon his or her consent as well as to a youth, sports, culture, educational or other social organization he or she belongs to if the court decides that educational measures a given school or organization disposes of are sufficient. Anyway, this institution has been envisaged from the very beginning in the Act on Juvenile Proceedings and its purpose was just to allow handing over minor's cases, mainly of a lesser degree of demoralization, to out-of-court community entities[21]. Again, relying on statistical data, it is worth noting that in 2005 this solution was applied in 118 cases whereas, concurrently, in 33674 cases educational measures were applied towards a minor. In 2010 there were 22 cases handed over to a school or social organization whereas in 30412 cases educational measures were adjudicated. In

19 Art. 2 of the Act of 15 March 2007 on the Amendment of the Code of Civil Procedure Act, Code of Criminal Procedure and Some Other Acts (Journal of Laws No. 112, item 766).

20 B. Czarnecka-Dzialuk, K. Drapała, A. Więcek-Durańska, Analiza postępowań karnych przed sądem dla nieletnich o wybrane czyny karalne popełnione przez osoby w wieku 15-17 lat, Warszawa 2011, p. 98 and 110 et seq.

21 This possibility had many opponents, particularly within the context of handing over a minor's case to a school. They argued that this solution may, unfortunately, contribute to increasing stigmatization of a minor in the school environment, and it may also reinforce his or her antisocial attitude in a long term.

2012, respectively, 17 cases were handed over and educational measures adjudicated in 26538 cases. Finally, in 2013, 25 cases were handed over and in 22105 cases educational measures were applied[22]. Interestingly enough, overwhelming majority of educational measures adjudicated towards minors for criminal acts they committed embrace the following: caution (respectively, in 2005 – 9257, in 2010 – 4404, in 2012 – 6972, and in 2015 – 4268) and probation (in 2005 – 8508, in 2010 – 7615, in 2012 – 6559, and in 2015 – 3488)[23]. At the same time, such educational measures as referring a minor to a social organization or institution providing education, therapy or training to minors (Art. 6 par. 1 point 6 of the Act on Juvenile Proceedings), or handing a minor over under a supervision of a youth organization or other social organization (Art. 6 par. 1 point 4 of the Act on Juvenile Proceedings) are not commonly applied in practice at all. Respectively, the first measure was adjudicated towards minors in 2010 in 16 cases, in 2012 – in 14 cases, and in 2015 – in 15 cases[24]. Furthermore, a decision to hand a minor over under the supervision of a youth organization or other social organization was adjudicated only once in 2015, in 2012 – twice, and in 2010 – not at all.

A picture of the participation of out-of-court factor in juvenile proceedings will be complete if we mention the frequency of applying mediation. Hence, in 2005 mediation was applied in 343 cases involving minors, in 2010 – in 337 cases, in 2012 – in 322 cases, and in 2015 – in 212 cases.

The comparison of the above figures clearly shows how far theoretical assumptions failed to meet the reality. Despite the statutory model of proceedings, undeniably based on the assumed need for a broad social participation in adjudicating and enforcing measures towards minor offenders, and despite the existence of relevant provisions thereon, such participation is, practically, marginal.

It is very difficult to univocally asses the reasons for the above situation without more profound studies. One of them is, undoubtedly, weakness of organizations which could support official administration of juvenile justice and courts distrusting entities that would be ready to undertake relevant activity within this field. Work

22 Polish Statistical Yearbook of 2014, GUS, p. 165. We should also remember that before 1 January 2014, a minor did not have to give a consent before the issue of a decision to hand his or her case over to a school or youth organization. This condition was introduced by the Amended Act of 30 August 2013 (Journal of Laws, item 1165).

23 Polish Statistical Yearbook of 2014, GUS, p. 168. Nieletni wg orzeczonych środków. Prawomocne orzeczeniach w latach 2008-2015 – information available on the Ministry of Justice website https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie (05.12.2016). Analyzing the above data, we should remember that from 2005 to 2015, a number of juvenile proceedings drastically decreased, in particular cases carried out just due to a suspected criminal act committed by a minor, thus in consequence thereof, a number of decisions decreased too. Hence, in 2005 courts issued binding and final decisions in connection with a suspected criminal act committed by a minor in 26228 cases, in 2010 – in 22807 cases, in 2012 – in 20980 cases, and in 2015 – only in 12237 cases; see more: Nieletni – prawomocne orzeczenia w latach 2003-2015. Informacja statystyczna Ministerstwa Sprawiedliwości.

24 It looks a bit better with regard to adjudicating educational measures in the form of participation in appropriate educational, therapeutic or training courses (Art. 6 par. 1 point 2 of the Act on Juvenile Proceedings). In connection with a confirmed criminal act committed by a minor, there were 990 such decisions in 2010, 995 in 2012, and 607 in 2015. Statistical data presented this way, however, do not answer the question if such measures should be enforced as part of the courses carried out by social centres or by state institutions.

with young offenders is of a special nature and requires special responsibility. No wonder courts do not want to experiment by undertaking cooperation with unverified entities. At the same time, transformations of the 1990s and the pace of subsequent economic as well as political and social changes did not conduce development of reputation and experience of newly created social organizations. Unfortunately, all of this impacts a statistical image of the operation of the juvenile system of justice. This image indicates that a prevailing factor therein is the official one in the form of a court. Perhaps excessiveness of caseload or maybe its pettiness entail that many cases are referred to a court only formally, yet engaging effort and resources of individual judges, who must decide to discontinue proceeding due to its futility or pointlessness. A main entity the court cooperates with when enforcing measures applied against minors is also an official body – a probation officer. It is not a proper place to assess probation officer's work taking into account certain massiveness of his or her tasks. Undeniably, however, there is quite vast and unused space within which unofficial entities, mostly social organizations, may reliably and effectively participate in the educational process of bringing up minors, reversing results of criminal acts they commit and preventing them in the future. Apart from drawing judges' attention to consider the need to develop cooperation with social organizations and undertake actions facilitating such cooperation as well as assessment of such organizations' credibility, it is worth considering introducing statutory regulations allowing more flexible proceedings before engaging the court. We should consider, among others, possibilities of referring a case to mediation not only by a court but also police, probation officers, or even school principals. It does not appear that such a possibility could threaten anyone's interests remembering that the parties must first agree to mediation while the consent is guaranteed by a mediator himself or herself too. At the same time, it might contribute to the increased number of this form of conflict resolution with the participation of a minor, favour teaching right attitudes and reduce a number of juvenile cases which, anyway, are either discontinued or closed by the issue of a caution.

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