

## Legal Mechanisms for the Protection of Juvenile Delinquents in Algerian Legislation

Nedjar Louiza<sup>1</sup>

<sup>1</sup>Lecturer Professor A, University of 8 May 1945 Guelma, Faculty of Law and Political Science, Department of Law, louisnejar@gmail.com

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### Abstract:

Both the child at risk and the juvenile delinquent are considered victims, regardless of whether they are the perpetrator or the victim of a crime. Modern legal policy views the child at risk as a victim of both personal and environmental factors, as well as other individuals. This impacts their personality, sense of self, and security first, and their behavior that masks the crime second. These two types of children represent two sides of the same coin, and neither can be solely labeled as a victim or a criminal. Consequently, the Algerian legislature has adopted the concept of the "child at risk."

Due to the ongoing debate surrounding this concept, the same legislature has established legal protection for children by enacting a well-defined and comprehensive law, considered closer to ideal, dedicated solely to serving children. This law, referred to as Law 15-12 concerning the Protection of the Child, is complemented by various other legislative texts.

### Introduction:

Positive laws aim to enact adequate protection for children, to safeguard them from all forms of danger, whether material or moral. As a vulnerable being, a child will be exposed to danger if the necessary protection is not provided at the earliest opportunity.

The Algerian legislator has sought to protect children from any harm they may face, by establishing a type of judicial protection exercised by the juvenile judge, who plays a vital role in this regard, through the application of various legal texts specific to the child at risk on the ground.

Children are the adornment of this world and the Hereafter, and they are a blessing bestowed upon us by the Almighty God, those who are deprived of them are deprived of the abundant good for the nation and society that protects them and enshrines their rights, especially those established by Islamic law, such as maintenance and care.

In light of the increasing rates of children being exposed to danger, the Algerian legislature has sought to uphold children's rights and provide social or judicial protection exercised by the judicial bodies specialized in juvenile affairs. To further explore the topic of juvenile judges, we will discuss the investigative stage in the Algerian legal system, followed by the mechanisms and jurisdiction of the juvenile judge following the latest legal amendments.

### Chapter One: Juvenile Judge in the Algerian System and His Jurisdiction

The Algerian legislature has significantly expanded the jurisdiction of juvenile judges in this context, no longer limiting their competence to just juvenile cases. Instead, their authority now encompasses various legal fields. This section delves into a detailed study of the juvenile judge and their jurisdiction.

#### Section 1: The Juvenile Judge

Article 59 of Law 15-12 of December 15, 2015, concerning the Protection of the Child, states: "There shall be a juvenile section in every court competent to hear misdemeanors and offenses committed by children. The juvenile section located at the headquarters of the Judicial Council shall be competent to hear felonies committed by children."<sup>(1)</sup>

Furthermore, Article 80 of the same law stipulates: "The juvenile section shall be composed of a juvenile judge as president and two sworn assistants.

The prosecutor or one of their assistants handles the prosecution's duties during hearings in the juvenile division, while the court clerk assists the judges."<sup>(2)</sup>

Based on Article 59-80 of the Child Protection Law (15-12), Algeria's juvenile judge spearheads the Juvenile Division, investigating and overseeing minor offenses and felonies at the Judicial Council court. Assisted by lay judges and a clerk, the judge receives prosecutorial support from the Public Prosecutor or their assistant. In essence, they are the guardian of justice for juveniles within the Algerian legal system.

Beyond investigating and ruling on minor offenses, the Juvenile Judge in Algeria also holds civil authority over at-risk minors, offering educational support<sup>(3)</sup>.

As defined by Articles 450 and 451 of the Code of Criminal Procedure, the Juvenile Division handles misdemeanors, with the division at the Judicial Council seat overseeing felonies. Jurisdiction is determined by the crime's location, the minor's residence, or the place of discovery/placement, whether temporary or permanent.<sup>(4)</sup>

It can be concluded from the texts of these articles that the juvenile division is composed of a juvenile judge, the president, and two sworn judges. The judge is appointed from among the judges of the court located at the judicial headquarters.<sup>(5)</sup>

In choosing the Juvenile Judge, the Algerian legislator can be said to have followed the approach of the French legislator. The person legally qualified to investigate minors or the Juvenile Judge, as in the French legal system, also has the authority to rule on the case, which is an exception for Juvenile Judges.<sup>(6)</sup>

It can be noted that according to Article 61 of Law No. 12/15, the Juvenile Judge is a judge with the rank of Vice-President of the Court.<sup>(7)</sup>

### **Section Two: Functions of the Juvenile Judge**

To effectively fulfill their mission, Juvenile Judges in Algeria conduct all investigations in cases involving juvenile offenders, as mandated by Article 64 of Law No. 15-12 on Child Protection, which stipulates: "Investigation is mandatory for misdemeanors and felonies committed by a child, and optional for infractions."<sup>(8)</sup>

Therefore, in addition to their role as judges ruling on juvenile offenses, the law grants Juvenile Judges the authority to investigate misdemeanors committed by juvenile offenders, as per the (repealed) articles 449, 450, 451, and 459/1 of the Code of Criminal Procedure.

This dual function is an exception to the general rule that a judge cannot rule on a case they have previously investigated. This principle was upheld in French legislation until July 8, 2011, when the provisions of Article 251-3 of the French Law on Judicial Organization were declared unconstitutional.

The rationale behind this decision was that combining investigation and adjudication for juvenile judges compromises the principles of neutrality and impartiality, as a judge who has investigated a case cannot then preside over the hearing. Consequently, these provisions were abolished in French courts starting January 1, 2013.

However, this rule remains in effect in Algeria despite the amendments introduced by Law No. 15-12 on Child Protection.<sup>(9)</sup>

### **Chapter Two: The Mechanisms Provided by the Algerian Legislator for the Juvenile Judge for the Child in Danger and the Juvenile Delinquent**

The issue of designating specialized judicial bodies to consider cases of children was recommended by Rule 14 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules of 1985, as well as various international conventions and instruments that deal with the rights of the child.<sup>(10)</sup>

The Algerian legislature relied on the provisions of the Convention on the Rights of the Child, which aims to achieve the child's best interests. To protect the child's rights, all cases involving children are brought before specialized judicial bodies.<sup>(11)</sup>

To study the mechanisms that the Algerian legislator has provided for the juvenile judge for the child in danger and the delinquent child, it is necessary to address in the first section the provisions and measures specific to the delinquent child. Then, we will discuss the provisions and measures specific to the child in danger in the second section.

### **Section One: Provisions and Measures Provided by the Algerian Legislator for the Juvenile Judge for the Child in Danger**

The provisions and measures taken by the juvenile judge to protect the child in danger, on a temporary or final basis, are related to one of the situations that may expose the child to danger.

Child in danger refers to all cases in which the child has not committed a crime but is in a situation of deviance and it is feared that leaving him in the state he is in will lead him to deviate in fact. In this case, it can be said that the child represents a social danger that may lead him to commit a crime.<sup>(12)</sup>

This is what the Algerian legislator followed when he enacted Law No. 15-12 on the Protection of Childhood, which defined the child in danger in Article 1 as minors who have not reached the age of twenty-one (21) and whose health, morals, or education are at risk or whose living conditions or behavior are harmful to their future. They can be subjected to protection measures and educational assistance.<sup>(13)</sup>

Therefore, the Algerian legislator has granted the juvenile judge a set of powers that enable him to take charge of the protection of the child in danger. These measures are included in Articles 33 and 34 of

Law 15-12 and enable the juvenile judge to get to know the child's personality to enable the juvenile judge to decide on the appropriate measures to protect the child in danger and to rehabilitate him at the same time. These measures are as follows<sup>(14)</sup>:

### **Subsection One: Informing the Child and/or Their Legal Representative**

According to Article 33 of Law 15-12, the first step that the Juvenile Judge takes after the petition is filed with him is to inform the child and their legal representative. He then listens to them. This article states: "The Juvenile Judge must inform the child and/or their legal representative of the petition filed with him immediately, and he must listen to their statements and receive their opinions regarding the child's situation and future<sup>(15)</sup>."The child may be assisted by a lawyer.

The child also has the complete freedom to answer the questions that the Juvenile Judge asks them or to refrain from doing so. This must be noted in the minutes of the meeting, and they cannot be sworn in when they are heard.

The right to remain silent is one of the rights granted to the child, and therefore they cannot be forced or coerced to provide evidence in certain cases concerning them. This means that they cannot be forced to speak by force or threat. It is also important to hear the child's legal representative and record the nature of their relationship with their friends. All of this helps the Juvenile Judge to get to know the child's personality and then take the appropriate action. "Hearing the child's parents is an essential step, and it may be the role of the Juvenile Judge in determining the child's personality and the illness they are suffering from, and thus taking the correct and appropriate action for the child.<sup>(16)</sup>"

### **Subsection Two: Conducting Social Research, Medical, Mental and Psychological Examinations and Monitoring Behavior**

According to Article 34 of Law 15/12, the Juvenile Judge must study the child's personality by ordering several measures, including social research, which is entrusted to legal entities by Order No. 75-64 dated 20/09/1975 establishing the institutions and services responsible for child protection. This order specifies the legal entities that carry out social research, namely the observation services that exist at the level of specialized centers and re-education, and the counseling and recreation department that exists at the level of observation and education in the open environment. The Juvenile Judge also orders medical examinations to ensure the health of the child at risk, and psychological examinations are assisted by a specialist in this field<sup>(17)</sup>.

The psychological expert suggests opinions that are consistent with the child's condition, but the Juvenile Judge has the option to accept or reject these suggestions.

### **Subsection Three: Judicial Measures Ordered for the Benefit of the Child at Risk**

The Juvenile Judge intervenes more strongly in terms of powers because he can order the appropriate measures to be taken to deal with the matter without being bound by the consent of the child's representative, even despite their opposition. These provisions are consistent with those of Article 03 of Decree 72-03 on the protection of childhood and adolescence, which was repealed by the current Law No. 15-12 on the child.<sup>(18)</sup> We will discuss these measures as included in Article 35 and following Law 15-12.

#### **1. Measures Taken Before the End of the Investigation with the Child at Risk**

The general rule is that the Juvenile Judge does not take any action with the child until after the investigation is completed, i.e., after hearing the child, and their parents, and conducting social, psychological, and medical investigations.

However, based on this and in case of urgency, the Juvenile Judge may issue temporary judicial measures to the child who is in mortal danger without completing the investigation procedures.<sup>(19)</sup>

Article 35 of Law 15-12 allows the Juvenile Judge to take one of the following measures regarding the child employing a temporary custody order during the investigation:

- Keeping the child in their family.
- Handing over the child to their father or mother who does not exercise the right of custody over them, unless it has been revoked by a court order.
- Handing over the child to trustworthy persons or families. The Juvenile Judge may also instruct the open environment services to observe the child in their family, school, or other relevant environment.

These measures provided for in Article 35 of Law 15-12 are the same as those provided for in Article 05 of Decree 72-03 on the protection of childhood and adolescence, which was repealed by the current law.<sup>(20)</sup>

As for the measures ordered by the Juvenile Judge in the case of a child in danger and which are reformatory, they are determined by Article 36 of Law 15-12. If the Juvenile Judge considers that the child's condition requires their removal from their family environment, they may order their temporary placement in:

- A center specializing in the protection of children at risk.
- A Responsible Service for helping children.
- A hospital or institution, if the child needs medical or psychological care.

According to Article 37 of Law 15-12, the duration of the temporary measures provided for in Articles 35 and 36 cannot exceed six (06) months.

Articles 40 and 41 of Law 15-12 regulate the measures ordered by the Juvenile Judge after the completion of the investigation and the summoning of the child, their legal representative, and the lawyer, if necessary. The Juvenile Judge may also exempt the child from appearing before them or order their exclusion from all or part of the discussions if their interests require.<sup>(21)</sup>

The measures ordered by the Juvenile Judge at this stage, according to Article 40, paragraph 03 of Law 15-12, are:

- Keeping the child in their family.
- Handing over the child to their father or mother who does not exercise the right of custody over them, unless it has been revoked by a court order.
- Handing over the child to a trustworthy person or family.<sup>(22)</sup>

In all cases, the Juvenile Judge may instruct the observation and education services in the open environment to follow up and observe the child and provide them with the necessary protection by providing the necessary assistance for their upbringing, education, and care. It should be noted that the open environment services are required to submit periodic reports to the Juvenile Judge on the evolution of the child's situation.<sup>(23)</sup>

According to Article 41 of Law 15-12, the Juvenile Judge may order the placement of the child in:

- A center specializing in the protection of children at risk.
- Service responsible for helping children.

These measures are discretionary measures that the Juvenile Judge has the power to use or not, depending on the best interests of the child. In addition to the above, the Juvenile Judge may decide, on a final basis, to place the child in the centers mentioned above. According to Article 41, paragraph 2, it can be inferred from the above that the Algerian legislator has divided the measures provided for the protection of the child under Articles 40 and 41 of the aforementioned law into two categories :

The first aims to keep the child in their family environment, return them to it, or hand them over to a trusted person.<sup>(24)</sup>

The second aims to place the child in one of the institutions specializing in the reception of children if their family does not exist, or if it exists but poses a danger to the child's upbringing, behavior, or health.

The measures provided for in Articles 40 and 41 of Law 15-12 are renewable for two years, provided that they do not exceed the date on which the child reaches the Algerian age of majority, which is 18 years old. However, the Juvenile Judge may, if necessary, extend these protection measures until the age of 21, at the request of the person concerned or the person to whom the child was handed over. The Juvenile Judge may also do so automatically, according to Article 42, paragraph 02 of the same law. However, the Juvenile Judge may issue an order<sup>(25)</sup>

Once the child can take care of himself or herself, according to Article 43 of Law 15-12 on the protection of the child, the orders issued concerning these measures are notified to the child and his or her legal representative within 48 hours of their issuance, by any means, following Article 45, paragraph 01 of the same law. It should be noted that these orders cannot be appealed in any way.<sup>(26)</sup>

The same article states in paragraph 02 that these measures can be modified or withdrawn by the Juvenile Judge at the request of the child, his or her legal representative, the Public Prosecutor, or on his or her initiative.

The Juvenile Judge must also rule on a request to review the measures within a period not exceeding one month from the date of its submission to him or her, according to Article 42, paragraph 03 of the aforementioned law.<sup>(27)</sup>

## **Section Two: Rulings and Measures Specific to Juvenile Delinquents in Algerian Law**

The Algerian legislature has established several rulings and measures specific to juvenile delinquents, which are explored below.

### Subsection One: Provisions Specific to Delinquent Children in Algerian Law

The process of issuing sentences for delinquent minors with the aim of their rehabilitation goes through several stages, as follows:

#### ✓ **Stage of Preliminary Release:**

This stage is stipulated in Article 48 of the Algerian Child Protection Law No. 15-12. It is considered the first stage in the prosecution of a delinquent minor, where he/she may be detained for questioning by judicial police officers after the Public Prosecutor has been informed and has approved the detention and its reasons, taking into account the age of the minor<sup>(28)</sup>.

The detention for questioning has conditions and procedures that must be respected by the police officer, otherwise the procedure will be considered null and void. These are as follows: Conditions and Procedures for Custody:

- The child must be at least 13 years old.
- The detaining police officer must promptly inform the Public Prosecutor and submit a report detailing the reasons for detention.
- The child must be fully informed of their rights, including the right to legal representation and medical examination.
- The duration of detention is strictly limited to a maximum of 24 hours.<sup>(29)</sup>

In criminal cases:

- ❖ The child can only be heard in the presence of their guardian or legal representative if known.
- ❖ The presence of a lawyer is mandatory. If the child does not have a lawyer, one will be appointed by the applicable legislation.
- ❖ After informing the Public Prosecutor of the absence of a lawyer, the detained child can be heard two hours after the start of the custody period, even if their lawyer is not present. If the lawyer arrives late, the hearing will continue in their presence. However, if the child is between 16 and 18 years old and the acts fall within those specified in Article 54, the child can be heard by the provisions of Article 55 without the presence of a lawyer, after obtaining authorization from the Public Prosecutor.
- ❖ The period of custody can be extended, with each extension not to exceed 24 hours. Violation of the custody deadlines by the judicial police officer exposes them to the penalties for arbitrary detention.<sup>(30)</sup>
- ❖ The role of the Public Prosecutor in this phase is limited to accompanying the Juvenile Judge to the places where the child is detained for inspection once a month, and monitoring their suitability for the child's specific needs and their independence from those places reserved for adults, as stipulated in Article 52, paragraph 3 of the Child Protection Law.<sup>(31)</sup>
- ❖ The Algerian legislature has established a specialized Juvenile Investigating Judge who may also be the Juvenile Judge. They exercise all the powers vested in an Investigating Judge in the Code of Criminal Procedure. The investigation is mandatory in misdemeanors and felonies committed by the child and optional in contraventions.<sup>(32)</sup>

Among the guarantees enjoyed by the child during the investigation phase are:

- ❖ The presence of the child's guardian plays a role in protecting the child from a psychological perspective. Although the text requires the investigating judge to notify the person responsible for the child of the prosecution without explicitly stating the need for their presence, judges ensure the automatic application of this principle.
- ❖ The presence of a lawyer with the child is considered one of the most important issues that the legislature has given special attention to<sup>(33)</sup>. It is mandatory at all stages of prosecution and trial.<sup>(34)</sup>

Juvenile cases are transferred to the adult juvenile judge in two cases:

**1. First Case:** If the case is complex, the judge separates the procedures at the end of the investigation by referring the adult perpetrators to the section competent to rule on misdemeanors, while the juveniles are referred to the juvenile section.

**2. Second Case:** The investigating judge is instructed to directly investigate the case, whether it involves the juvenile alone or with adults, in the case of a felony.<sup>(35)</sup>

At the end of the investigation, the Juvenile Judge or the judge in charge of the investigation issues orders, which are provided for in Articles 170 to 173 of the Code of Criminal Procedure and include:

- ❖ An order to refer the child to the juvenile section of the court if the facts constitute a misdemeanor or contravention (Article 79 of the Child Protection Law).

- ❖ An order to dismiss the charges under the conditions outlined in Article 163 of the Code of Criminal Procedure, if the facts do not constitute a crime or there is insufficient evidence (Article 78 of the Child Protection Law). These orders can be appealed within 3 days of their issuance.<sup>(36)</sup>
- ❖ However, orders relating to provisional measures, as provided for in Article 70 of the Child Protection Law, have an appeal period of 10 days.<sup>(37)</sup>

After the initial investigation, the juvenile delinquent is investigated and then tried before the Juvenile Court in the presence of the child, who enjoys several guarantees, the most important of which are:

- ❖ The mandatory assistance of a lawyer, following Article 67 of the Child Protection Law. This is mandatory at all stages of prosecution, investigation, and trial.<sup>(38)</sup>
- ❖ The juvenile delinquent is tried after the parties have been called and their identities verified. The charges are then brought against the juvenile, their statements are heard, and the victim is heard. If the victim is a minor, the statement of their legal representative is heard, followed by the statements of the witnesses after they have taken the oath.
- ❖ In addition to hearing the statements of the probation officer, the next stage is the questioning and discussions, followed by the pleadings and the presentation of requests.
- ❖ Finally, the floor is given to the juvenile and their lawyer, which is followed by the deliberation and pronouncement of the judgment.<sup>(39)</sup>
- ❖ The proceedings of the juvenile trial are characterized by their speed and avoidance of prolonging the proceedings before the courts. They are also characterized by their departure from all the formalities required for the adult court.<sup>(40)</sup>

If it becomes apparent that the crime being considered by the Juvenile Section as a misdemeanor is, in fact, a felony, the Juvenile Section, other than the court located at the seat of the Judicial Council, must refer it to this latter court. In this case, the Juvenile Section may, before ruling on it, order a supplementary investigation and appoint the investigating judge in charge of juveniles for this purpose.<sup>(41)</sup>

The legislature has authorized the Juvenile Court to order the removal of the child from the hearing after questioning him or her to protect him or her from being harmed by the measures taken against him or her. The legislature has adopted the principle of confidentiality of juvenile court hearings. Only witnesses, close relatives, the child's guardian or legal representative, members of the Bar Association, and representatives of bodies and institutions concerned with juvenile affairs are allowed to attend the trial.<sup>(42)</sup>

The judgment shall be rendered according to one of the following hypotheses:

- If it is proven that the facts do not constitute a crime, or that they are not proven or not attributed to the child, an acquittal is pronounced.
- If it is proven that the facts are proven, the judge orders protective and educational measures, custodial sentences, or a fine.
- The judgment on the measures shall be for a fixed period not exceeding the date on which the child reaches the age of criminal majority.<sup>(43)</sup>
- In criminal and misdemeanor cases, only one or more of the protective or educational measures provided for in Article 85 of the Child Protection Law may be taken against the child.<sup>(44)</sup>
- The judgments rendered in misdemeanors and felonies committed by the child can be appealed by opposition and appeal. The final judgments and decisions issued by the juvenile courts can also be appealed by cassation.<sup>(45)</sup>
- After the judgment is issued, the Juvenile Judge supervises its execution by monitoring the child and has all the authority to contact the juvenile. Within his or her jurisdiction, he or she visits the institutions and centers that house the juveniles and observes the progress of work there to ensure the well-being of the child while taking into account their concerns. He or she also makes recommendations to the officials that serve the child's best interests and contribute to his or her rehabilitation.<sup>(46)</sup>
- After the judgment is issued, the permanent delegate, under the authority of the Juvenile Judge, manages and organizes the work of the volunteer delegates. They also monitor the children who have been entrusted to them by the judge personally and submit an immediate report in case of child abuse or endangerment, as well as in cases that hinder the performance of their duties and, in general, any incident or situation that requires an adjustment of the measures taken by the Juvenile Judge.<sup>(47)</sup>
- The Juvenile Judge may modify the measures taken at any time, either on the request of the public prosecutor's office or the open-ended social services or on the request of the child's parents,

guardian, or the child himself. However, in the case of parents, guardians, and the child, six months must have elapsed since the judgment placed the child outside the family. Once this period has elapsed, they have the right to request the return of the child to the family. The Juvenile Judge has the power to accept or reject the request, but in the latter case, the request can only be renewed after three months from the date of the rejection.<sup>(48)</sup>

- The Juvenile Judge shall refer the matter to the President of the Juvenile Section if there is a placement measure in respect of a child who has been placed with a legal representative, person, or family worthy of trust.<sup>(49)</sup>
- Judgments rendered in incidental matters and requests for modification of measures relating to probation, placement, or surrender shall be immediately enforceable, notwithstanding opposition and appeal.<sup>(50)</sup>

### **Section Two: Measures Specific to Juvenile Delinquents in Algerian Law**

Protective and educational measures are those measures taken with a juvenile delinquent that aim to address juvenile delinquency, reform and protect the juvenile, and redirect them toward normal behavior. These measures are provided for in Articles 49 and 50 of the Algerian Penal Code, as well as in Law No. 15-12 on the Child.

Article 49 states that:

"A minor who has not completed ten years of age shall not be subject to criminal prosecution.

A minor who is between 10 and less than 13 years of age shall only be subject to protective and educational measures. However, in cases of misdemeanors, they shall only be subject to reprimand.

A minor who is between 13 and 18 years of age shall be subject to either protective and educational measures or reduced sentences."<sup>(51)</sup>

From this text, it is clear that:

- A juvenile who has not reached the age of ten cannot be prosecuted.
- A minor who is between 10 and less than 13 years of age cannot be punished, but the Juvenile Judge can only take protective and educational measures in cases of misdemeanors and felonies.
- In cases of misdemeanors, a minor between the ages of 13 and 18 can only be reprimanded.
- For a minor between the ages of 13 and 18, the Juvenile Judge may order protective and educational measures or reduced sentences.<sup>(52)</sup>

Article 85 of Law No. 15-12 on the Protection of the Child specifies the measures that can be taken against a minor between the ages of 10 and 18, as follows:

- "Without prejudice to the provisions of Article 86 below, in cases of felonies or misdemeanors, only one or more of the following protective and educational measures may be taken against the child:
- Hand him over to his legal representative, a trustworthy person, or family.
- Placing him in an approved institution for the assistance of children.
- Placing him in a boarding school suitable for accommodating children of school age.
- Placing him in a specialized center for the protection of juvenile delinquents.
- Placing him under a system of supervision and entrusting the open-ended social services with carrying it out. This system may be revoked at any time."

Among the measures aimed at reforming the juvenile delinquent, which are provided for in Article 85 of Law No. 15-12, are the following:

#### **Placement:**

The placement of the child to his parents, to the person who has guardianship over him, or to a trusted person, is one of the measures established to protect the child from moral danger. We also find it as a measure of protection for delinquent children.<sup>(53)</sup>

Placing a child with a parent is not, in itself, a corrective measure. Rather, it serves as an alert for parents to attend to their child's well-being and provide proper guidance.<sup>(54)</sup>

A healthy family environment plays a crucial role in reforming and improving a minor's character. Studies suggest that strong parental bonds and a harmonious family atmosphere create a supportive environment for the child's development, fostering a well-rounded and balanced personality. Additionally, a secure emotional environment and social harmony contribute significantly to building a healthy personality.<sup>(55)</sup>

International law has taken an interest in this matter, as Article 46 of the United Nations Principles on the Protection of Minors Deprived of their Liberty sets out the exceptional cases in which a minor may be placed with someone other than their parents. These cases are as follows:

- If the child or minor has been abused by their parents or guardians.
- If the child or minor has been subjected to sexual, physical, or emotional abuse by their parents or guardians.
- If the child's or minor's parents or guardians have neglected, abandoned, or exploited them.
- If the child or minor is at religious or moral risk due to the behavior of their parents.

#### **Reprimand:**

Reprimand is a formal reproach pronounced by the judge in court to put the juvenile delinquent in their place. It is defined by Article 102 of the Egyptian Child Law as follows: "to reprimand, blame, and rebuke the juvenile for their actions and warn them not to repeat such behavior."<sup>(56)</sup>

Analysis of the text reveals that reprimand is a form of censure and reprimand for delinquent juveniles aimed at correcting and rescuing them from undesirable and criminal behavior.

Further, it can be defined as a protective and educational measure for juvenile delinquents stipulated by the Algerian legislature in various legal provisions found in the Penal Code and the Code of Criminal Procedure. This measure applies to juvenile delinquents between the ages of 10 and 13 who have committed a minor offense, as stipulated in Article 49 of the Penal Code. Additionally, judges can order reprimand for minors between the ages of 13 and 18 who have committed a minor offense, as outlined in Article 462 of the Code of Criminal Procedure.<sup>(57)</sup>

Article 462 of the Code of Criminal Procedure states that: "If the court proceedings do not conclusively prove the juvenile's guilt, the juvenile division shall order their release. If the proceedings establish their guilt, the juvenile division shall explicitly state this in their judgment and then reprimand the juvenile and subsequently hand them over to their parents, guardian, or the person responsible for their custody. If the minor has been abandoned by their family and entrusted to a trustworthy individual, the court may also order the juvenile to be placed under supervised release, either temporarily or permanently, until they reach the age of 19, subject to the provisions of Article 445.

The juvenile division may make this decision enforceable despite an appeal."<sup>(58)</sup>

Following the reprimand, the judge can also order the juvenile to be placed under supervised release, either temporarily or permanently, until they reach the age of 19. This order can also be made enforceable despite an appeal.

In conclusion, reprimand is a corrective measure that in no way aims to harm the juvenile delinquent but rather to protect them and try to steer them away from the path of delinquency. Therefore, the judge delivering the reprimand should not be harsh or use cruel language that could leave lasting negative effects on the juvenile's psyche, potentially leading to negative and unintended outcomes from the corrective and reformatory process.<sup>(59)</sup>

#### **Supervised Release System for Juveniles**

In juvenile criminal law, supervised release, also known as probation, involves placing a juvenile in their natural environment under guidance and supervision. This placement is subject to the obligations outlined in the judgment ordering probation or placement under supervision.<sup>(60)</sup>

The Lebanese Juvenile Law defines supervised release in Article 11 as: "placing the juvenile under the supervision of the Juvenile Association, which entails monitoring his behavior, conduct, work, and education while providing him with proper guidance and oversight of his health, social, moral, and professional matters."<sup>(61)</sup>

The Algerian legislature also recognizes supervised release through:

- Articles 462 and 469 of the Code of Criminal Procedure
- Articles 85 and 87 of the Child Protection Law

An analysis of Article 469 of the Code of Criminal Procedure reveals that the juvenile division may temporarily place a convicted juvenile under supervised release.<sup>(62)</sup>

The judge in charge of juvenile cases may also place a child between the ages of 10 and 13 under supervised release if deemed in their best interest, provided they do not reach the age of criminal majority. The judge can also entrust the open environment services with carrying out this task, as stipulated in Articles 85 and 87 of the Child Protection Law No. 15-12.<sup>(63)</sup>



The supervised release system offers the advantage of preserving the juvenile's social ties with their family and avoiding their isolation in specialized institutions, many of which lack the necessary resources for proper rehabilitation.<sup>(64)</sup>

Placing a juvenile under supervised release, particularly with a qualified probation officer, can protect them from falling into the traps of crime and delinquency.<sup>(65)</sup>

In addition to protective and educational measures, the Algerian legislature allows for reduced sentences for minors between the ages of 13 and 18, depending on the nature of their offense.

If the prescribed sentence involves imprisonment, the judge orders judicial supervision following the provisions of the Code of Criminal Procedure. This is because pre-trial detention is only permissible for children in exceptional circumstances when the temporary measures outlined in Article 70 are deemed insufficient.<sup>(66)</sup>

Protecting children is a fundamental duty of the judiciary, and judicial protection for children is essential. This protection has been institutionalized through dedicated bodies and procedures, distinct from those used for adults, both victims and offenders.

The new amendments to the Child Protection Law (Law No. 15-12) demonstrate the legislature's commitment to comprehensive child protection.

The law emphasizes judicial protection by establishing a specialized body, the Juvenile Court, and appointing specialized judges, including juvenile judges and investigating judges specializing in juvenile cases.

### **Conclusion:**

The protection of children is a fundamental and vital responsibility entrusted to the judicial system, particularly the courts. Therefore, the emphasis on judicial protection for children is paramount. This commitment goes beyond mere appearances, as specialized bodies and entities have been established with dedicated material and human resources, alongside distinct procedures specifically tailored for children. These procedures stand in stark contrast to those traditionally used for adults, be they victims or offenders.

The recent amendments to the Child Protection Law (Law No. 15-12) demonstrate the legislature's comprehensive approach to safeguarding the well-being of children.

Firstly, it underscores the significance of judicial protection by establishing a dedicated entity, the Juvenile Court.

Secondly, it fosters the appointment of specialized judges, including both juvenile judges and investigating judges with expertise in juvenile cases. The juvenile judge holds a unique position within the legal system, possessing specific qualifications, objectives, and powers granted to champion the cause of children.

Thirdly, the procedures, safeguards, and measures outlined for child protection are inherently and demonstrably unique, as stipulated in Law 15-12. They encompass the treatment, protection, and, when necessary, the deterrence of children. It is crucial to recognize that the child in question, regardless of whether they are at risk, a victim, or a delinquent, remains the same individual. Judicial protection aims to shield this child irrespective of their status, prioritizing severity towards those who pose harm or risk, and leniency when dealing with child perpetrators.

Furthermore, the prescribed procedures and measures prioritize prevention and education above all else, eschewing purely punitive approaches. This represents the core principle of judicial protection for children. Imposing primarily punitive measures would only exacerbate the situation, as the ultimate objective is to safeguard children, not to create future criminals.

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