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**Judicial Approaches to Juvenile Crime: Explaining the  
Application of Educational Recommendations in Sarajevo**

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## **Executive summary**

### **1. Introduction**

Criminal justice system of Bosnia and Herzegovina has been undergoing through a reform aimed at achieving a number of legal standards contained in numerous international legal instruments. Apart from those changes related to more efficient combat against organized crime, one of the most important innovations in the criminal justice system of BiH is introduction of educational recommendations as alternative measures for dealing with juvenile crime. Still, even more than five years after its introduction, it is obvious that educational recommendations are rarely, if at all, used as means for prevention or reducing the likelihood of re-offending of a juvenile offenders. In this research we ask if the reform of the criminal legislation is done in accordance with international standards and if certain provisions of the Criminal code of FBiH represent an obstacle for implementation of educational recommendations.

### **2. Methodology**

Main research methods that were used to implement this research project are: content analysis, distribution of questionnaires and semi-structured interviews with judges and prosecutors. It has to be said here that, with unconditional cooperation from Open Society Fund, President of the Municipality court Sarajevo and The prosecutor of the Sarajevo Canton, total of 50 questionnaires were distributed to judges and prosecutors. Unfortunately, the researcher received total of 6 filled questionnaires. Therefore, we were unable to provide a reader with a quantitative results that would show attitudes of judges and prosecutors towards problems of implementation of educational recommendations and a likelihood of change of their policy of implementation.

### **3. Main findings**

Judges and prosecutors are now aware of the importance of a policy research for improvement of court's and prosecutor's office work.

If we compare provisions contained in Criminal Code of FBH (CCFBH) related to implementation of alternative measures on juvenile offenders with existing international standards, we can draw several general conclusions:

- a) CCFBH do contain provisions related to implementation of alternative measures on juvenile offenders;
- b) Alternative measures can be applied on all categories of juvenile offenders that were aged 14-18 at the time they committed an offence;
- c) Alternative measures can be applied on juvenile offenders only prior to formal criminal proceeding.

If provisions on alternative measures contained in CCFBH are subjected to an in depth analysis than it is possible to see that there are some provisions that might represent obstacles in terms of implementation of those measures. Namely, it has also been found that:

- a) Police forces can not implement alternative measures on juvenile offenders;
- b) List of possible alternatives is limited. In other words CCFBH does not contain "wide range of alternatives" that a judge or a prosecutor could implement in certain case;
- c) A judge/prosecutor can impose only one educational recommendation at the time;
- d) Judges and prosecutors can not impose all educational recommendations prescribed by CCFBH but only some of them;

- e) When deciding on which educational recommendation to impose a judge/prosecutor has to take into account interests of the offender and a victim only and not interests of the society (community);
- f) Procedure on imposition of educational recommendations is not clearly defined;
- g) No procedure for supervision of implementation of educational recommendation is prescribed;
- h) Authorities for supervisions are not defined;
- i) It is not clear how a judge or a prosecutor should proceed in case that educational recommendation is not effective or is not being applied;
- j) Duration of all educational recommendations is limited to one year, which applies to apology just as to restitution or counselling or work for some local community or humanitarian organisation.

#### **4. Main recommendations**

We deem that:

1. Judges and prosecutors must be familiarized with the importance of a policy research for improvement of their work;
2. Criminal code of FBH and Criminal Procedure code of FBH should be amended as to accomplish standards contained in international legal instruments related to alternative measures in order to:
  - a. Clearly define the purpose of educational recommendations;

- b. Allow imposition of educational recommendations for more severe offences if the case is of a such nature and gravity that alternative measure will improve likeliness of juvenile not re-offending;
- c. Define a wider list of alternative measures and make possible for both a judge and a prosecutor to impose any of them;
- d. Allow imposition of more than one educational recommendation if needs of a case require so;
- e. Clearly define procedure for imposition of educational recommendations;
- f. Clearly define procedure of supervision of implementation of educational recommendations;
- g. Clearly define authorities in charge of supervision and their powers
- h. Clearly define procedures in case that imposed educational recommendation did or did not become effective (implemented).