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**I/A- CHILD: PROCEDURAL SAFEGUARDS OF  
ACCUSED OR SUSPECTED CHILDREN  
JUST-JACC-AG-2017/802059**

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**ZAGREB, CROATIA, 2019**

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## HIERARCHY OF LEGAL RULES:

- European law (supreme to any national law and even to the Constitution itself);
- Cyprus Constitution;
- International Law (set of rules generally regarded and accepted as binding. It serves as a framework for the practice of stable and organised international relations);
- Ordinary laws (define specific legislation and crimes and/or procedures upon the justice system and the laws retained by virtue of Art.188 of the Constitution);
- Secondary legislation, and
- Administrative or Implementing Acts.



# BACKGROUND OF JUVENILE JUSTICE IN CYPRUS

- The Republic of Cyprus has been an independent state since 1960.
- In the years prior, the island was under British rule which shaped its legal structure as well as the Criminal and Judicial Systems.
- The Children's Law dates back to 1956, and
- The Juvenile Offenders Law dates back to 1959 which was amended only once, in 1972.
- There is a bill of Legislation which awaits to become part of the Cypriot Legal System:

Establishing a Child-Friendly Criminal Justice System for Minors who are in Conflict with the Law (Prevention, Treatment in the Criminal Justice System and Tackling Offences – Law of 2019)



# CYPRUS JUSTICE SYSTEM – PROTECTION AGE FOR CHILDREN AND YOUNG PEOPLE (1)

- The Cypriot legal framework consists of different laws that deal with issues relevant to children either as victims or as offenders, which focus on:
  - The specific provisions and rights
  - The protection age defined in the legislations.



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# CYPRUS JUSTICE SYSTEM – PROTECTION AGE FOR CHILDREN AND YOUNG PEOPLE (2)

‘Child’ is defined as any person under the age of 18 under the regulations of:

- The Convention on the Rights of the Child (Ratification) Law No. 243 of 1990 (UN Convention);
- The Children Law, Cap 352;
- The Law on the rights of Persons Under Arrest and in Detention 163(I)/2005;
- The Violence in the Family (Prevention and Protection of Victims) Law 119(I)/2000;
- The Witness Protection Law 95(I)/2001,
- The Law of Preventing and Combating Sexual Abuse and Sexual Exploitation of Children and Child Pornography Law 91(I)/ 2004.

## PROTECTION AGE FOR YOUNG OFFENDERS

### **The Drugs and Psychotropic Substances Law 29/77 as amended by Law 20(I)/92**

- Provides specific provisions for non-prosecution of young people under the age of 25, for specific offences and if it was their first time committing an offence.

### **The Probation and Other Ways of Treatment of Offenders Law 46 (I)/1996**

- Defines probation order as an autonomous non-custodial sentence to be applied when a juvenile is convicted (they might be placed under supervision of a probation officer for a specific period of time).

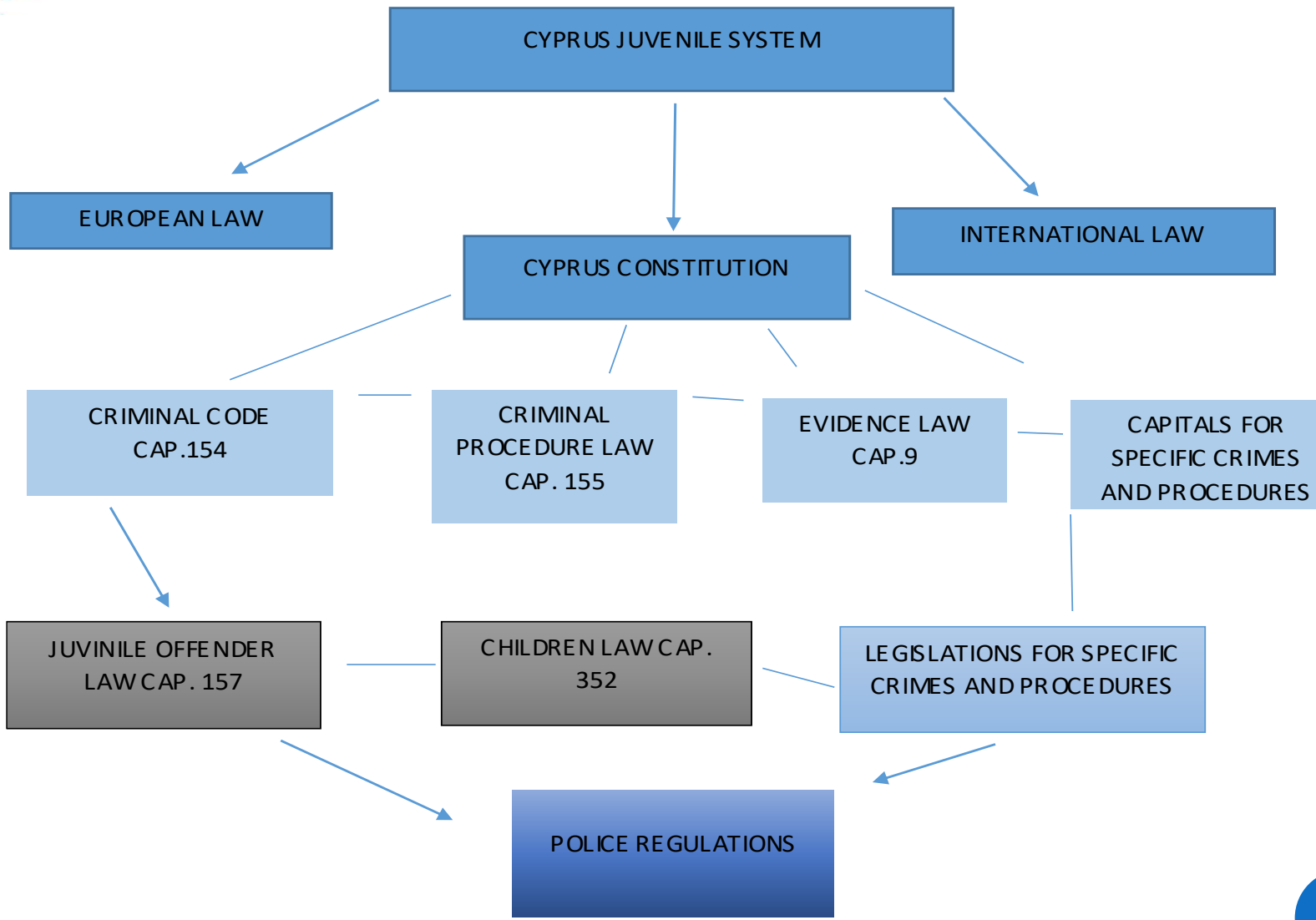
# THE JUVENILE OFFENDERS LAW, CAP 157

It is referred to be the key legislation which regulates the juvenile justice system in Cyprus.

**Child:** defines the person under the age of fourteen

**Juvenile Delinquent:** person of 14 years old or upwards and under the age of 16 (14 -16)

**Offenders** over the age of 16 are treated by the judicial system as adults





## POLICE REGULATION

The Police Regulation No. 5/18 explains:

Interrogation and Handling of Cases Involving Juvenile Offenders, in accordance with the provisions of the Juvenile Offenders Law, Cap. 157.

For young persons between 14 -16 who are considered as delinquent and are involved in offences:

- Arrest and Notifications;
- Investigation and Interrogation;
- Provisions and Rights;
- Committee of Handling Juvenile Offenders, and
- The process of the criminal case.

## POLICE REGULATION (2)

The police must immediately inform:

- The parent or guardian about the arrest, the reasons of the arrest and the Police Station where the child will be held.
- The District Police Director.
- The SWS, when it is deemed necessary for the interests of the offender/suspect, especially when in regards of an unaccompanied minor.



## POLICE REGULATION (3)

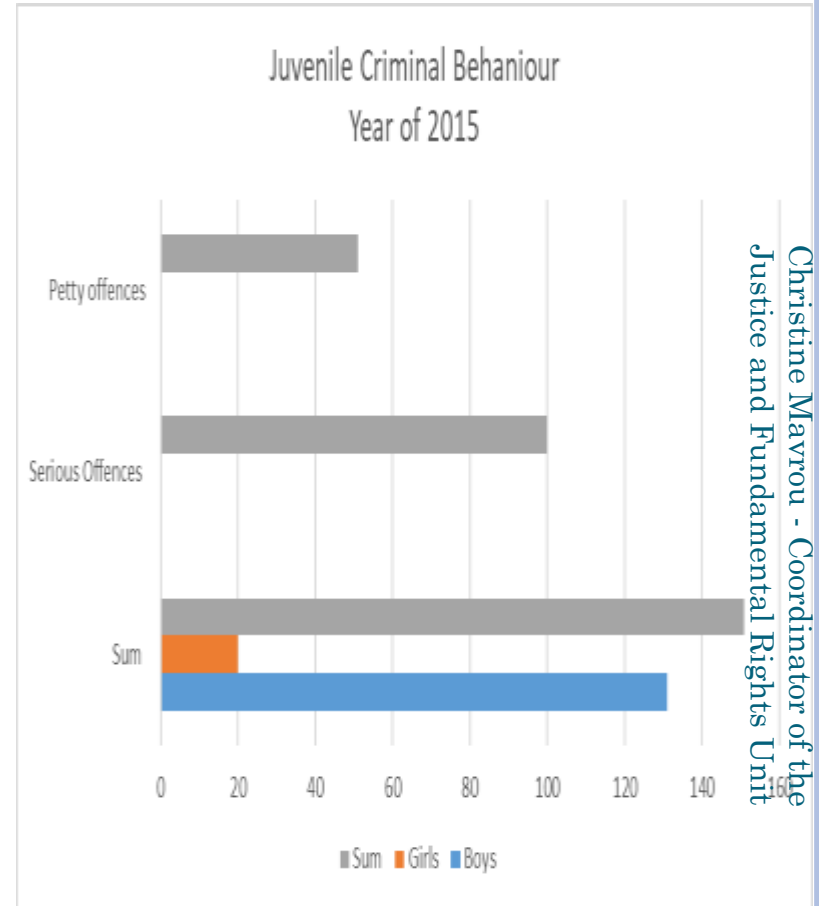
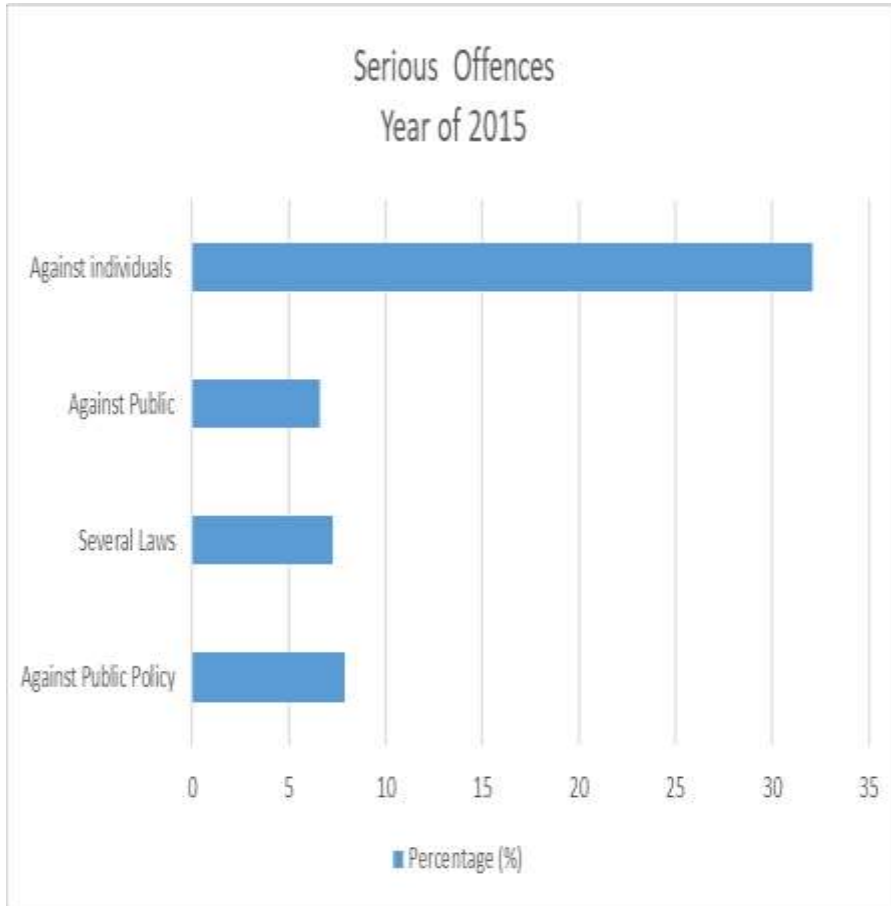
- **Notification to parents/legal guardians may be delayed for a period not exceeding 12 hours, if there is reasonable suspicion that it would:**
  - Result in the destruction or concealment of items related to the solving of the crime;
  - Prevent the arrest or questioning of another person in connection with the offence;
  - Lead to escape of the juvenile;
  - Lead to the commission of another offence;
  - Risk the security of the Republic or the constitutional order/public policy or interfere with the administration of justice (Law 163(I)/2005, Art. 3(2)).



## PROTECTING THE DELINQUENT DURING INTERROGATION/POLICE REGULATION (4)

- Police regulation require that the interrogation of any child under the age of 18 must take place in the presence of the parent/legal guardian or an officer of the SWS;
- Right to have a lawyer present during questioning;
- Investigators should be trained to use a child-friendly manner when interviewing/interrogating.

# STATISTICS



Christine Mavrou - Coordinator of the  
Justice and Fundamental Rights Unit



# INDIVIDUAL ASSESSMENT – DIRECTIVE 2016/800 ART. 7

- Member States shall ensure that the **specific needs of children concerning protection, education, training and social integration are taken into account (7(1))**.
- [...]The individual assessment shall, in particular, **take into account the child's personality and maturity, the child's economic, social and family background, and any specific vulnerabilities that the child may have (7(2))**.
- The individual assessment shall be carried out at **the earliest appropriate stage of the proceedings** and, subject to paragraph 6, before indictment (7(5)).



# INDIVIDUAL ASSESSMENT – DIRECTIVE 2016/800 ART. 7

- [...]They shall be carried out **by qualified personnel**, following, as far as possible, a multidisciplinary approach [...] (7(7)).
- If the elements that form the basis of the individual assessment change significantly, Member **States shall ensure that the individual assessment is updated throughout the criminal proceedings** (7(8)).
- Member States **may derogate from the obligation to carry out an individual assessment** where such a derogation is warranted in the circumstances of the case, **provided that it is compatible with the child's best interests** (7(9)).



# INDIVIDUAL ASSESSMENT IN CYPRUS

- Assessment is based on the child's background;
- Parents' background;
- Medical history of child and parents;
- School performance;
- Child's environment, and
- Social and economic situation.

**Timeline:** In order for the individual assessment to be filed, it takes up to a year. Additionally, there is no follow-up made.





# DESCRIPTION OF I/A IN CYPRUS

- The SWS prepare the report after a request from the Director of the Police Force. The report is presented during the court hearing or even prior, to help the judge(s) decide upon the case.
- Officers of the SWS have some general guidelines as to how to conduct the report, but no toolkit or template is used. The report might be produced with not even a single house visit.
- There is a chance the minor is referred to the MHS for the assessment of the minor. The MHS do not have any specific toolkit to assess the juvenile offender/suspect.



# I/A UNDER THE NEW BILL OF LEGISLATION

- The new legislation has provisions in regards of training of professionals who come into contact with minors who are in conflict with the law.
- Individual assessment will be conducted as soon as the incident is reported, as well as up to the preliminary stage.
- The proposed legislation will tackle all aspects of the 2016/800/EU Directive.



## ESTABLISHING A CHILD-FRIENDLY CRIMINAL JUSTICE SYSTEM FOR MINORS WHO ARE IN CONFLICT WITH THE LAW (PREVENTION, TREATMENT IN THE CRIMINAL JUSTICE SYSTEM AND TACKLING OFFENCES – LAW OF 2019

- When a minor is arrested the procedure will be:
  - Inform the Commissioner on the Rights of the Child;
  - Inform the SWS;
  - Inform the minor about their rights (police officer);
  - All interrogation has to be done in 24 hours maximum;
  - Support the minor if the family is not able to support them, and
  - Transmission to the Attorney General to decide how the case will proceed.



# CHALLENGES AND RECOMMENDATIONS

- The legislative framework needs to be updated in order to reflect the Cypriot context;
- Training of professionals who come into contact with minors in conflict with the law;
- Toolkits/good practices for I/A for the best interest of the child, and
- Infrastructures (i.e. Juvenile Courts, Juvenile detention centers, appropriate measures for police stations – interrogation/questioning).



# THANK YOU!

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