

“Beijing Rules” and court proceedings of Azerbaijan in respect of minors below the age of criminal responsibility

Abstract: Criminal and criminal procedural legislation of Azerbaijan Republic on regulation of legal relations of juveniles committed crimes but below the age of criminal responsibility, do not correspond to the principles and terms of fair trial, contradict to “United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)” and other international treaties.

Comparative analysis found a presence of essential collisions between them and gaps that exclude the functioning of a system of court proceedings in respect of minors not reached the age of criminal responsibility.

Keywords: minor; an age of bringing to criminal responsibility; “Beijing Rules”; court proceedings; refusal in institution of criminal case; collision; criminal prosecution; Commission on Juveniles Affairs; legal capacity.

According to Article 5.1. of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), a system of justice in respect of juveniles directed, first of all, to ensuring the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.

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Article 7.1 of the Rules says that basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

Article 11.3 emphasizes "the important requirement of securing the consent of the young offender (or the parent or guardian) to the recommended diversionary measure(s). (Diversion to community service without such consent would contradict the Abolition of Forced Labour Convention.) However, this consent should not be left unchallengeable, since it might sometimes be given out of sheer desperation on the part of the juvenile" [4, p. 3, 5-6].

Meanwhile, foregoing provisions of international treaty, Azerbaijan has not been yet a participant of the treaty, in legislation of our state has not reflected. An issue in part of minors below the age of criminal responsibility has not long time regulated.

Only in December 2006 the chapter 5 of the Code of Criminal Procedure (hereinafter, the CCP) of Azerbaijan Republic "Particularities of production in respect of juveniles" was supplemented with article 435-1 "Placing a person below the age of criminal responsibility in special educational institution of closed type" and article 435-2 "Other matters associated with forwarding a minor to special educational institution of closed type" [10, p. 420-421].

Comparative analysis of the provisions of Articles 435-1 and 435-2 of the CCP allows asserting about presence essential collisions between them and main institutions of criminal process, and also the gaps that exclude functioning of the system of court proceedings in respect of juveniles, not reached the age of bringing to criminal responsibility.

So, while proceedings in respect of person, not reached the age of bringing to criminal responsibility, structural element of criminal prosecution - arraignment - might be began by mistake. In addition, with dismissal of criminal

case criminal prosecution should also be dismissed, and in considered situation it only is begun.

If matters indicated in article 435-1 of the CCP are resolved by court, then legitimacy of decisions about dismissal of criminal case or refusal in institution of criminal case is impugned since it turns that an investigator (prosecutor) makes a premature decision about dismissal of criminal prosecution, which, nevertheless, is continued. In addition, if criminal prosecution is terminated with dismissal of criminal case then participation of public prosecutor in court session is become an objectless.

However, since according to Article 7.0.4 of the CCP, criminal prosecution, like a kind of criminal procedural activity, is performed to establish an event of crime and disclosure of a person committed it, then participation in court session becomes ambiguous.

In our standpoint, above stated is concerned one side of the problem of criminal prosecution of persons not reached the age of bringing to criminal responsibility. Other side is concluded in the fact that according to Article 39.1 of the CCP, a criminal prosecution may not start or shall be discontinued (and the criminal case may not be begun or proceedings in the criminal case shall be discontinued), if at the time of the act provided for in criminal law a perpetrator is below the age of criminal responsibility (excluding the circumstances in which coercive educational measures must be applied).

According to Article 87 of the Criminal Code of Azerbaijan Republic, maintenance of forced measures as educational influence are: a) warning; b) transfer under supervision consists in putting on parents or persons, replacing them, or on the appropriate enforcement authority of a duty on educational influence on minor and to control over his behavior; c) a duty to smooth down the caused harm; d) restriction of leisure and an establishment of special requirements to behavior of the minor [9, p. 114-115].

Thus, it turns that persons below the age of criminal responsibility simultaneously might be sentenced to few kinds coercive measures of educational influence that stipulated in criminal law, which are placement them in special closed type educational institution.

Summarizing foregoing, it seems necessary to assert that valid criminal procedural law does not solve the problems of criminal prosecution at proceedings in respect of persons below the age of criminal responsibility, in this connection in this part it is subject to change and addition.

In our opinion, it is necessary to change a content of Article 7.0.4 of the CCP and set forth as follows: "criminal prosecution is a criminal procedural activity performed by prosecuting authorities to disclose crime and person(s) committed it, indictment of a subject of crime and maintain this charge in court".

This case procedural criminal prosecution will be corresponded to actual, and criminal procedural activity in respect of persons below the age of criminal responsibility, is remained such [6, p. 143-157].

Content of Article 435-1 the CCP of Azerbaijan Republic allows conditionally separating proceedings in respect of persons below the age of criminal responsibility into: the stage of pre-trial production; production in commission on juvenile affairs; court production; appeal production; appeal-cassation production and production on execution of court judgement about placing a person in special closed type educational institution.

This division is conditional since exemplified stages do not correspond commonly accepted criteria of the stages of criminal proceedings, and in some cases, contradict them, about which will be spoken below.

In our standpoint, pre-trial production in form of preliminary investigation is a mandatory stage of proceedings in respect of person below the age of criminal responsibility, but committed especially grave crimes. Consequently, it might be asserted about presence of the stages of institution of criminal case and directly preliminary investigation till dismissal of criminal case and his forwarding to

commission on juvenile affairs. It seems that tasks of the two indicated stages sounded to the tasks of criminal proceedings as come from them, but list of participants is very specific that determines necessity its detailed consideration. Speaking about participants of the stages we keep in mind the persons participating in criminal process and said in Article 7 and section two of the CCP. But, neither in Article 7.0.18 nor in section two of the CCP the persons below the age of criminal responsibility, but committed grave and especially grave crimes, are not appeared.

Article 100.2.2 of the CCP says about incapable suspects and accused persons who are below the age of 14. But this is nonsense as according to Article 20 of the Criminal Code, criminal responsibility for the number of crimes shall be subjected only from the age of 14.

Thus, in considered case as the participants we will have full team of prosecution party, and defence party - a person questioned as witness, but not being such, and a representative or two representatives of a witness, one of which will be lawful. There should not be a counsel as there is no suspected or accused person.

In dependence on situation, a person committed socially danger deed at time of institution of criminal case, might be known (obvious crime) or unknown (unobvious crime). In the second case investigation is conducted in usual order but with appearance in the process of a person the age below of criminal responsibility, but suspected or exactly known as committed socially danger deed, specifics of proceedings is sharply changed. Unfortunately, it is not to a better side. This stage is finalized with making a decision on termination of criminal case, which should be in non-alternative order submitted to commission on juvenile affairs.

According to Article 432.6 of the CCP, where criminal proceedings concerning a minor are discontinued, this shall in all cases be done with the consent of the minor or his parents (or other legal representatives).

According to Article 281 of the CCP, an investigation shall send copies of the decision to discontinue criminal proceedings to a suspect or accused person, his defence counsel, a victim, a civil party, a defendant to the civil claim and their representatives. The listed persons shall be informed of their right to take cognisance of the case file and of the procedure for lodging a complaint against the decision to discontinue criminal proceedings [10, p. 290-291].

Article 435-1 of the CCP say nothing about familiarization with materials of case-file, but this stage of proceedings should be obligatorily taken in account since the issues solved in it, have essential significance for solution of criminal process tasks.

From content of Article 281 of the CCP is seen that real participants of production in respect of persons below the age of criminal responsibility (minor, his legal representatives, witness' representatives) have no indicated in it that, in our standpoint, is a gap, which subjected to elimination.

Due to absence of actual participants of process in the text of law, it appears problems with submission of petitions and complaints, including in order of judicial supervision. In addition, dependence on situation (person is ill, hidden, his location not established), production on a vase might be suspended, but the law say nothing of it that is also a gap, which should be eliminated.

Certain doubts calls the stage, when production is carried out by commission on juveniles affairs, which, according to law, has defining role in solution placement of a minor in special closed type educational institution. Obviously, a lawmaker proceeded from the fact that the specialists (teachers, psychologists etc.) participating in commission on juveniles affairs will resolve the issue better than jurists.

Let's try to understand the rightness of this in an aspect of forward motion of criminal case and solution general and private tasks of court proceedings.

According to Article 435-1.2 of the CCP, basing on materials of criminal case, the Commission on Juveniles Affairs collects other necessary documents and

submits a petition to a first instance court at the place of residing of a minor for examination a matter to place a minor to special educational institution of closed type. The law say nothing about what means "other necessary documents", but practice shows that this is, as rule, references in respect of parents, survey's acts of living conditions etc. However, according to Article 429 of the CCP, all matters of this part should be resolved during preliminary investigation as they are a subject of proving on case. In addition, it is remained unclear who - an investigator or commission - submits case-file before court for sending a minor to special educational custodial institution of closed type. It is no doubt that this is a punishment in form of deprivation of freedom, despite what camouflage terms it would have called.

It is seen from the content of the Article 435-1 of the CCP that an investigator is obliged to make a decision on sending a person in special closed type educational institution and to submit the case to the commission, and the latter using special knowledge solves a matter on opportunity its solution. If the commission makes positive decision the case is submitted to a court. It turns that the commission has an alternative and it may decide negatively the matter and not to lodge petition before court, and to return the case to an investigator (though the law say nothing about it and has no practice).

As for using of special knowledge, it seems reasonable to supplement the Article 140 of the CCP with provision about the fact that an issue of forwarding a minor to special closed type educational institution is resolved at presence of appropriate expert report in branch of psychology and medicine.

Provision on examination of the issue with the first instance court calls doubts since it turns that persons committed grave and especially grave crimes are judged by the first instance courts and not the courts on grave crimes that is violation of Article 29 of the CCP.

With third stage of criminal proceedings is the fact that in number of situations might be applied a measure of procedural coercion - detention and it

appear of procedural figure of suspected, a notion of which, in our standpoint, the CCP of Azerbaijan states wrong; the law in this part should be changed.

So, according to Article 90 of the CCP of Azerbaijan Republic, suspected is recognized: a) a person whom it has been decided to detain with a view to a criminal charge; b) a person detained on suspicion of committing an offence; c) a person about whom a decision on the choice of restrictive measure, excluding arrest, bail and house arrest, is taken. But, according to Article 91.1 of the CCP, an individual whom the investigator, prosecutor or court decides to charge shall be referred to as the accused, even if he has hidden from investigation and court. According to Article 223 of the CCP, the grounds for preferring charges shall be the totality of the prima facie evidence that the person concerned has committed an offence, and according to Article 224 of the CCP, bringing of charge is possible only to accused person. Thus, it turns that person has a status of suspected, when he has ever had the status of accused that is wrong and presents to be collision [3, p. 95-96].

According to valid law, if it known from beginning of checking that a person committed crime (obvious crime) is a minor below the age of criminal responsibility, all stages of process up to making decision on refusal in initiation of criminal case fall down from process. If crime is unobvious and criminal case has instituted, then from the date, when was established that a minor below the age of criminal responsibility involved in crime's commission, all remained stages of proceedings fall away before drawing a decision about dismissal of criminal case. Accordingly there are reduced the rights of a person gained by him at appropriate stages and as result are made narrow opportunities to defend the rights and interests of minor. It concerns also court production, which, in our opinion, in interpretation of Articles 435-1 and 435-2 of the CCP presents to be a parody in fair trial.

In connection with above, we offer to provide in the law all existing stages of judicial production also on cases about crimes committed by minors below the age

of criminal responsibility; to exclude from pre-trial production an opportunity of refusal in initiation of criminal case and to supplement it with modified stages of recognition of person committed crime etc. up to drawing an indictment.

Assertion on illegitimacy of refusal in institution of criminal case based on the fact that in case of commission by a minor a grave or especially grave crime the circumstances, which impossible to determine without production of investigative actions, is subject to mandatory establishment. For instance, a level of development or opportunity of adequate assessment his actions, which cannot be clear without production psychological expert examination, and to assign expertise is possible only on instituted criminal case at presence other materials received by investigation through samples for comparative examination [8, p. 172-178].

According to Article 139 of the CCP, the facts which need to be proven: the facts and circumstances of the criminal act; the connection of the suspect(s) or accused person(s) with criminal act; the guilt of a person in committing the act provided for in criminal law; circumstances which mitigate or aggravate the punishment for which criminal law provides; the grounds for a request by a party to the criminal proceedings or another participant in the proceedings [10, p. 173].

In addition to enumerated circumstances, according to Article 429 of the CCP, following circumstances shall be established during proceedings concerning minors: the age of the minor (year, month, day of birth); the lifestyle and background of the minor; a level of the minor's physical, intellectual and mental abilities; the possibility of separating the criminal proceedings concerning the minor if other persons participated in the offence that he committed. And despite that Article 139 of the CCP says on necessity to establish a subject of proving only through evidences, to which, according to Article 124 of the CCP are related testimonies of witnesses, a victim, a suspect and accused; an expert's opinion; material evidence; records of investigative and court procedures; other documents.

According to the law (Art. 207.4 of the CCP), listed evidences (except a record of a scene's inspection and an expert's opinion) might only be received after initiation of criminal case.

According to Article 100 of the CCP, minors below the age of criminal responsibility have a lack of legal capacity and protection of their rights and interests in criminal proceedings are carried out by legal representatives and hired by them lawyers [10, p. 135-137].

But, legal representatives are the participants of criminal process in meaning of definition of Article 7.0.18 of the CCP and the party of criminal process in meaning of Article 7.0.19 of the CCP. According to Article 7.0.3 of the CCP, criminal process means the totality of procedures conducted and procedural decisions taken on criminal prosecution. Since there is no criminal prosecution without criminal case then there is absent criminal process and no the participants and parties, and consequently cannot be legal representatives of incapable minor. This is also concerned counsel, who as procedural figure is appeared only after initiation of criminal case as the party of adversary procedure, and before that he is only official - lawyer.

Thus we may recap that refusal in institution of criminal case in respect of minors below the age of criminal responsibility contradicts the principles and terms of criminal proceedings. In particular, in our opinion, refusal to institute criminal case contradicts the principle of presumption of innocence (Art. 21 of the CCP), according to which any person suspected of committing an offence shall be found innocent if his guilt is not proven in accordance with this Code and if the court has not delivered a final judgment to that effect. This is also said by Article 23 of the CCP, according to which no one may be held guilty of an offence or be convicted in the absence of a court judgment.

It seems that refusal to initiate criminal case also contradicts the requirements of Article 22 of the CCP "Guarantee of the right to a court hearing" and Article 32 of the CCP "Adversarial character of both parties in criminal proceedings", as upon

refusal to institute criminal case there is absent criminal process and as result competed parties of prosecution and defence.

On designing of the CCP of Azerbaijan Republic, chapter two "Court and persons participating in criminal process" consists on heads "Court", "Prosecution party", "Defence party", "Other persons participating in criminal proceedings" and "Representatives and assignees" that allows asserting that a lawmaker refers the subjects of above listed notions to participants of criminal process.

Article 7.0.18 of the CCP refers an inquiry officer, investigator, prosecutor, victim, private prosecutor or civil plaintiff, their legal representatives and representatives, suspected or accused, their legal representatives, civil defendant and his legal representative or representative to the participants of criminal proceedings.

According to Article 7.0.29 of the CCP, other participants in the criminal proceedings are an attesting witness, witness, specialist, expert, court session secretary and interpreter. Thus, according to the main notions of criminal procedural legislation (Art. 7 of the CCP), legal representative (Art. 104 of the CCP), witness' representative (Art. 105 of the CCP) and victim's assignee (Art. 106 of the CCP) have not included in number of participants of criminal process that it seems wrong and should be corrected [10, p. 40].

It seems that any person participating in criminal proceedings should be recognized its participants while determining and normative fixation of his legal status. Under the participation in criminal proceedings should be understood any actions or inactions of a person (if under such might be also understood a passive observance) in investigative and others procedural actions, and also organizational measures that conducted on criminal case.

In our standpoint, the CCP should be supplemented with provisions on person's status who participates at production of procedural action and mandatory signing of a record by all its participants. It is possible the situations, when person participated in production of procedural action but not being the participant of

criminal process more fully and objectively than the latter will observe, remember and reproduce a dynamics and results of actions. In addition, that is a main, an absence in a record the information concerning all voluntary or involuntary participants in procedural action is an evidence of its incompleteness, and consequently, illegality.

As we noted above, all enumerated contradictions and flaws of the law in part of participation in criminal proceedings are especially clear manifested at its performance in respect of minors below the age of criminal responsibility, when is conducted the pre-trial and trial productions , and also at performance of judicial control [7, p. 318-320].

In pre-trial production, when a minor's age is known from time of crime's commission and decision made on refusal to institute a criminal case, from participants of criminal proceedings that provided with Article 7.0.8 of the CCP are present only investigator and prosecutor just only due to their official status.

For appearance other participants of process (except suspected person) is necessary a criminal case and appropriate decision, i.e. it is production on criminal prosecution.

Refusal in criminal prosecution means an absence of accused, his counsel, victim, witness, civil plaintiff, representatives and other participants of process. There are a minor below the age of criminal responsibility, his parents or fiduciaries and lawyer who cannot be a defender or representative since the law does not provide of it in this situation, but there are no participants of criminal proceedings in notions of Article 7 of the CCP.

Similar situation will be at institution of criminal case, but it will be to have unsolvable issues not less and it may be more. So, according to Article 100.2.2 of the CCP, in criminal proceedings the following persons shall be considered to lack legal capacity: victim, civil plaintiff, suspected or accused person and civil defendant, who are below the age of 14.

However, according to Article 20 of the Criminal Code, the minors who do not reach the age of 14 cannot be recognized suspected, accused persons or civil defendants, if prosecuting authorities know their age. Consequently, provisions of Article 101 of the CCP concerning legal representative of incapacity by age suspected or accused person are not corresponded to reality.

According to Article 435-1.1 of the CCP, dismissed criminal case or materials on refusal in initiation of criminal case in respect of minor below the age of criminal case for three days are submitted to commission on juveniles' affairs in order to place them in special closed type educational institution.

Thus, in this stage of proceedings is appeared the commission of juvenile affairs as its participant, which solves the main issue entire process in respect of incapacity on the age - the issue on possibility to place a minor in special closed type educational institution.

According to Article 435-1.2 of the CCP, based on material of prosecuting authority the commission collects other necessary documents and being found necessity to place a minor in special closed type educational institution, lodges a petition with all documents about it to the first instance court on residing place of the minor. The law says nothing about where case is submitted if residing place of minor is absent. It should be assumed that in case of negative solution of the matter on forwarding of minor in special closed type educational institution the commission returns criminal case (refusal materials) together with its report to the prosecuting authority from which the materials have been received. The law says nothing about what to do if the prosecuting authority does not agree with solution of the commission.

Notion, content, structure and system of proving and evidences are one of the main problems of criminal proceedings in respect of minors below the age of criminal responsibility, which consists on dozens unsolvable interlinked issues, that determined with incompleteness and contradictory nature of the provisions of

law of Azerbaijan Republic in this part, their discrepancy to criminalistical recommendations approved by practice [2, p. 102-120].

So, according to Article 141 of the CCP of Azerbaijan Republic, without using of case file materials of prosecuting authority, the certain facts are recognized as proven. In particular, in compliance with Article 141.3 of the CCP, the following facts shall be regarded as established: a) persons' knowledge of the law; b) persons' knowledge of their professional duties and staff rules; c) lack of specialised training and education, if the person does not present documents certifying his specialised training and education or does not give the name of the institution or other organisation providing the specialised training and education that it seems to be wrong [10, p. 174].

Foregoing is especially significant concerning minors below the age of criminal responsibility. Agree that it is unfair to affirm about duty of a minor the age of 10-11 to know the laws, especially, if he does not study, has no parents etc.

Significant problems are an absence on law of the provisions concerning the application of coercive procedural measures in respect of minors below the age of criminal responsibility. Moreover, legislation does not provide any other measures, which might be effectively applied in respect of minor in order to prevent his illegal behaviour or evasion of investigation or court.

So, according to Article 154 of the CCP, coercive measures might be applied in respect of suspected or accused person. But, when the age of minor excludes a criminal responsibility, then it is impossible to endow him with suspected or accused status as it will be obvious and gross violation of the law [10, p. 184].

According to the Law of Azerbaijan Republic "On prevention of homelessness and offences of minors", its subjects are the bodies of internal affairs, in which operate the specialized police structures including the centres of temporal isolation of minors [1, p. 2].

According to Article 20.6 of the Law, at considering by court of an

application place a minor to a special closed type educational institution, with a court decision a juvenile can be placed in minor's temporary isolation center for up to 30 days at the following reasons: a) in case of danger to life and health of a minor; b) to prevent repeated commission a socially dangerous act; c) in case of absence to a minor place of residence or stay; d) in case of repeated evasion by a minor to appear in court or a medical examination, under which is understood to re-failure to appear in court or medical examination without good reason or his escape from the place of residence [1, p. 15].

Thus, it seen from foregoing that in period of investigation and pre-investigation checking the law does not provide an opportunity to keep a minor in center of temporal isolation, and this excludes an opportunity to prevent his illegal behaviour or evasion of investigation or court.

Resolution of the situation described is seen in alteration and supplement of appropriate provisions of the CCP, the Law "On prevention of homelessness and offences of minors" and "Regulations on commissions on the affairs of minors and protection of their rights" [5, p. 6].

In particular, it seems necessary to supplement the CCP with provision about the fact that on petition of investigator, presentation of prosecutor and decision of court at mandatory participation of minor's representative (a lawyer) a minor below the age of criminal responsibility might be placed for period of preliminary investigation for one month (30 days) in center of temporal isolation of a body of internal affairs.

Wherein, it should be taken into account that according to presumption of innocence, minor is remained to be such till a court decision, stipulated Article 435-1 of the CCP. In addition, to reduce the time from institution of criminal case and its lodging to court, it is necessary to bring a commission on minor's affairs for investigation of criminal case from its beginning and presence of a minor, and the matter on submitting his to a court with request to place him in special educational institution of closed type to leave on joint

consideration of investigator, prosecutor and commission at obligatory presence of appropriate opinion of the experts-psychologists. Presently, according to Article 435-1.2 of the CCP, this matter has been remained in resolution of Commission on Juveniles Affairs, activity of which due to absence of proper specialists, leaves much to be desired.

At investigation of criminal cases in respect of minors below the age of criminal responsibility, the latter might be participated in proceedings only in witness' status that creates collisions with number of the norms concerning this category of participants of proceedings.

So, according to Article 95.2.1 of the CCP, those who because they are under age or because of their physical or mental disabilities cannot understand and testify about the matters to be investigated in the criminal proceedings may not be called or questioned as witnesses. Thus, the law forbids ever a call of similar persons, but not only their questioning. According to Article 126.5 of the CCP, information from persons who may not be questioned as witnesses shall not be used as evidence. The same time, Article 228 of the CCP says that if an under-age witness can provide information of significance to the case either verbally or in another form, he may be questioned notwithstanding his age, consequently, it allows interrogation all categories of minors without any age limitation, including of tender ages.

According to Article 228.4 of the CCP of Azerbaijan Republic, a witness who is under 16 years old "shall merely be informed of his duty to tell the truth. However, he shall not be warned of the criminal responsibility incurred for refusal to testify, evading questioning and intentionally false testimony" [10, p. 248]. This provision of the CCP is wrong as there is no minor's duty to say true.

It seems necessary to draw attention in contradictions of procedures of investigative actions and organizational measures with participation of persons below the age of criminal responsibility [11, p. 429-446].

So, according to Article 236.3 of the CCP, a defender of suspected or accused has right to participate in examination, but in our case there is no and cannot be such because person below the age of criminal responsibility participating in proceedings is deprived such right. Similar situation is also concerned an identification, search, seizure, check of testimonies at place and other investigative actions.

There is more unclear with body search. According to Article 238 of the CCP, body search of person may be conducted against the will of the person concerned only by court decision, except the cases of detention and arrest, in addition counsel for a suspected or accused person shall be entitled to be present at a body search.

But, in our case there is neither suspected, accused nor counsel, and consequently cannot be applied an arrest and detention..

According to valid CCP, persons below the age of criminal responsibility deprived the rights at assignment and production of expert examination, experiment, check of testimonies at place, seizure of samples etc.

It should especially consider the fact of search of persons below the age of criminal responsibility, as according to Article 278 of the CCP, a search may only be announced in respect of accused, in addition it is impossible a deliver such persons.

In this connection, it seems necessary to introduce in the CCP the notion of a person below the age of criminal responsibility but suspected in commission of crime with determination of his status guaranteeing observance rights and interests.

Summarizing above stated, we may assert that to ensure in criminal proceedings the rights and interests of minors below the age of criminal responsibility, first of all, it is necessary to determine their status, stages of their participation in criminal proceedings, to resolve problems of criminal prosecution, participation of counsel and representatives, evidences and proving, production of investigatory actions and organizational measures.

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