

**PUBLIC TRANSLATION  
QUESTIONNAIRE FOR MEETINGS IN TRONDHEIM  
QUESTIONNAIRE 2007**

**3<sup>rd</sup> COMMISSION: CRIMINAL AND CRIMINAL PROCEDURAL LAW**

1. Yes, there are: Act N<sup>o</sup> 22,278 and its amendments, Acts N<sup>o</sup> 22,803 and 23,742. The minors who are still not 16 (sixteen) years old are not punishable. Neither are punishable the young people who are not 18 (eighteen) years old as regards crimes of private actions or who are repressed with penalties involving personal restraint of no longer than 2 (two) years, with a fine or disqualification. The minors from 16 to 18 years of age are punishable if they commit a crime that is not listed in the above paragraph.
2. Prohibitions of publication.  
Yes, there are.  
There are no foreseen exceptions
3. Alternative measures.  
Yes, there are.  
They are decided during a judicial process, and they are decided by the judge.  
In which circumstances? When according to the studies performed, the minor has been abandoned, they do not receive the necessary assistance, are in moral or material danger or present behavioral problems or any type of addiction.
4. Transference to the criminal rules applicable to adults.  
No, it is not foreseen  
The maximum punishments to a minor are not the same as the ones for an adult considered responsible of the same crime.  
Whichever the severity of the crime or repetition of the crime of a minor who is still not 18, the judicial authority shall provisionally dispose of them, and it shall proceed to the crime proof, it shall directly become acquainted with the minors, their parents, tutors or guardians and shall order the reports and experts appraisals, leading to the study of their personality and the family and environmental conditions in which they are.  
If necessary, the judicial authority shall locate the minors in an appropriate place for their better study during the needed period of time.  
The judicial provision shall determine:
  - a. The mandatory custody of the minor on the part of the judge, in order to endeavor the former's adequate formation by means of an integral protection, in order to achieve it, the judge shall be able to order the provisions they consider convenient and which shall always be modifiable for the minor's benefit.
  - b. The resulting restriction to the exercise of parental rights and duties and guardianship, within the limits imposed and fulfilling the indications issued by the judge, without prejudice of the legal effect of the obligations inherent to the parents or tutors.
  - c. The confirmation of the guardianship made by the judge when it corresponds.

The definite provision could stop at any moment by means of a reasonable judicial resolution and shall end as by operation of law when the minor becomes of age.

5. Choice as regards the determination of punishment to offenders from 16 to 18 years of age.

Yes, there are.

The punishment imposition shall be subjected to the following requisites:

- a. That their criminal or civil responsibility, if corresponding, has been previously declared according to the procedural rules.
- b. That they have become of age (18 years old)
- c. That they have been submitted to a guardianship treatment period of not less than 1 (one) year, period that can be extended if necessary until they become of age.

Once all these requisites have been fulfilled, if the type of event, the minor's criminal record, the results of the guardianship treatment and the direct impression gathered by the judge make it necessary to apply a punishment, the judge shall so resolve it, having the power of reducing it as it is foreseen for an attempted crime. On the contrary, if it is not necessary to apply a punishment, the judge shall acquit them (pardon), in which case the judge can dispense with requisite b. (that they have become of age).

6. Punishment Objectives

Principle of rehabilitation, recuperation and reinsertion in the family and society.

Adults are condemned to compensate for the consequences of a crime, minors principally for rehabilitation.

The minor's freedom is granted by the judge when they consider that they are rehabilitated or that they can continue the treatment at home where there is contention.

7. No, there aren't