



SABIEDRĪBAS INTEGRĀCIJAS FONDS



**FACTUM**  
RESEARCH STUDIO



# **THE ROLE OF COMMUNITY SERVICE IN ELIMINATING SOCIAL EXCLUSION**

Riga, 2007



The study „The Role of Community Service in Eliminating Social Exclusion” was performed by SIA FACTUM with 75% financial support of European Union from the European Social Fund and 25% financial support of Latvian State budget (project identification number: VPD1/ESF/NVA/06/GS/3.1.5.3./0001/0044). This report of study results reveals the point of view of the work group (SIA FACTUM employees involved) and therefore by no means it may be considered as a presentation of the opinion of the European Community or Latvian State.

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Using the data of in-depth interviews with judges, employers and of public opinion poll, the study „The Role of Community Service in Eliminating Social Exclusion” gives analyses of barriers and prejudices that hinder application of community service as a compulsory measure of a correctional nature to juvenile delinquents and practical execution of the sentence. The topicality and problem of the study is determined by the need to develop in Latvia an efficient system of community-based sentences and behaviour correction for juvenile delinquents. Over the last ten years awareness of impunity has developed in the mind of juvenile delinquents because the existence of the limited comparatively less serious types of punishment has caused a situation that committal in behaviour correction institution is used only as the utmost measure. To ensure public security and timely behaviour correction of a minor, a clearly defined conformity to natural laws shall be in place that a violation ends up with a penalty. It is important to ensure that a minor perceives even a comparatively mild punishment both as a penalty and as a possibility to break away from the way of life, where an offence is a daily routine of a person and his closest surrounding people. It is possible to achieve this by combining a punishment with interesting possibilities (participation in extracurricular activities), warm and concerned attitude by adults, professionals involved in behaviour correction, and correction of interests (for example, behaviour correction activities, treatment of addictions, professional orientation).

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## DEFINITION OF TERMS

Community service – a compulsory measure of a correctional nature applied by the court or a judge for a committed offence by a minor (age of 11 to 18). Community service is an involvement of a child in doing community work that is performed by a child without remuneration in the area of residence in the free time outside the regular employment and studies for a term of ten to forty hours. If a minor fails to observe the terms of executing community service or evades the work, the State Probation Service sends to the court an application about extension of community service duration or its replacement with a stronger compulsory measure of a correctional nature (for example, committal in social correction educational institution).

Forced labour – a criminal sentence that provides for involvement of a convict in public work. The convict serves this sentence by doing specific work in the area of residence in free time outside the regular employment or studies and without remuneration. Lists of public works in which the convicts sentenced with the community service shall be employed, are prepared by municipalities. Forced labour can be sentenced when a person has reached the age of 14.

Probation – a system of execution of a criminal sentence „forced labour“ and compulsory measure of a correctional nature „community service“ as well as measures of supervision of probation clients and social behaviour correction that has been developed to prevent the recidivism of a criminal offence.

Probation client – a conditionally convicted person; a person who is conditionally released before the end of the term; a person against whom the criminal process has been dismissed, conditionally releasing from criminal liability; a person under sentencing of the forced labour; a person applied community service; a person who is sentenced to forced labour upon the public prosecutor’s injunction; a person whom the court, public prosecutor or imprisonment administration has required an assessment report about; a person who has committed a crime and has agreed to participate in reconciliation.

Employers – municipal institutions and enterprises or non-governmental and public benefit organizations which have entered into agreement with the forced labour execution institution on employing convicted persons or which are employing convicted persons for public benefit without an agreement, assigning the convict a respective work which they can do in their free time outside the regular employment or studies.

State Probation Service (SPS) – a state institution that cares for the public security working with people serving the criminal sentence in community (conditional sentences, forced labour) and helps to former prisoners return into the society.



## INTRODUCTION

The study „The Role of Community Service in Eliminating Social Exclusion“ was performed by SIA FACTUM with 75% financial support of European Union from the European Social Fund and 25% financial support of Latvian State budget. Implementation of the survey was carried out within the period of 15 January to 15 September 2007. The overall objective of the project is to facilitate application of community service to juvenile delinquents as a stimulating mechanism of social integration, as well as a preventive measure against violation of law.

The study „The Role of Community Service in Eliminating the Social Exclusion“ explores community service as an eliminating measure of social exclusion. Effective community service is a compulsory measure of a correctional nature to minors in order to correct their social behaviour timely. Consequences of such preventive measures can be evaluated in a long-term, and their positive effect would emerge in two ways – by correcting timely the offenders’ behaviour it is possible to reduce the risk of a person committing a repeated criminal offence, facing social insularity, getting in the imprisonment place, and to save resources of adults’ social rehabilitation in future.

Community service for minors as one of compulsory measures of a correctional nature was introduced by the Law of 31 October 2002 “On Applying Compulsory Measures of a Correctional Nature to Children” that came into force on 1 January 2005. Effectively organized community service should facilitate value orientation development and strengthening that is adequate to general public interest or instillation of work as a value to the minor. By facilitating involvement of juvenile delinquents in adequate and suitable public works, an interest in work in general and acquisition of a definite profession and education may be aroused. Pretty often it is the first and the only work experience to a minor, which gives at least a small opportunity to learn work skills and by demonstrating himself at work to raise the self-esteem. Even in cases when low-qualified work is not very exciting or interesting, it widens social experience of a minor and stimulates motivation to learn in order to acquire more interesting and exciting profession.

In order the community service could prevent teenagers from committing further illegal actions or creating a „criminal career“, the sentencing must be grounded and timely. A grounded penalty also for small offences could reduce a sense of impunity that is now widespread among young people and that the interviewed field specialists – judges, State Probation Service employees and employers are worried about in the study. Permissiveness that is stimulated by nihility of clear rules and consequences of violation, like conditional sentences are often perceived, creates good conditions for juvenile violence and crime, while an obligation to apologize to victims and redeem one’s guilt or reimburse the losses incurred by means of work for public benefit creates more responsible attitude of youngsters and refrain them from committing similar or more severe offences in future.

On the other hand, too severe punishments and exaggerated repressions, for example, imprisonment or juvenile committal in social correction institutions currently existing in Latvia, do not stimulate strengthening of observation of law but directs the youngster to the order of the criminal world. Severe and inadequate penalties for children who most often have not had the easiest life can cause only fear and hate, not respect for the society. In order to reduce the social exclusion risk and to integrate children from unfavourable families in the society, performing of appropriate work for public benefit should be applied as a punishment or compulsory measure of a correctional nature for offences and violations committed by them. That would help the teenager to enlarge his social network, to make new contacts and develop regular or even lasting relations in more favourable social environment. That what a comparatively small experience of implementing community service for minors is and to what extent the practice corresponds to the goals and ideals set, will be considered in the further description and analysis of the study results.

The specific objectives of the study are: 1) to facilitate an application of community service to juvenile delinquents as a stimulating mechanism of general working skills and social integration; (2) to define barriers and negative prejudices that hinder the application of community service to juvenile delinquents ; (3) to give recommendations to representatives of community service application and supervisory institutions in order to improve the socially favourable effect of the community service.

Community service is sentenced theoretically to minors of age 11 to 18, but it should be noted that at the moment when minors reach the age of 14 it is possible to impose both a compulsory measure of a correctional nature – community service, and a criminal sentence – forced labour. A compulsory measure of a correctional nature – community service is less severe judgement on the forced labour, but statistical data show that community service is imposed comparatively seldom. Since the overall objective of the study is to develop a system of community-based sentences and behaviour correction for minors, the report to a great extent analyses the difficulties of this group's behaviour correction in general, and sometimes it is hard to separate whether the problem considered for the most part is related to community service or to the forced labour.

Within the study experience and attitude towards community service of those professionals was found out who define the environment of its application, namely, judges, employers whose set tasks the convicted persons perform and the State Probation Service staff. Awareness and support of inhabitants of Latvia for punishing juvenile delinquents was also found out which is an essential argument for a decision maker.



## CONCLUSIONS AND RECOMMENDATIONS

The data of the public opinion poll performed within the study show that although the majority of inhabitants of Latvia have heard something about a compulsory measure of a correctional nature - community service, it is rather superficial view. However, support to the idea that juvenile delinquents should serve the sentence in community by performing „real correction works“ that by nature corresponds both to a compulsory measure of a correctional nature - community service, and a criminal sentence - forced labour, in general is rather common. There is conformity of opinions among inhabitants about the need of application of „correction works“ and in general it is considered that community service should be often applied to minors for committing less serious offences.

As it is possible to apply both community service and the forced labour to teenagers who have reached the age of fourteen, statistics, judges and State Probation Service employees admit that community service is applied more seldom but forced labour - more often. It should be also noted that in case of the forced labour it is easier to apply various sanctions to the convict if he evades the execution of the imposed work. The fact that in case of failing to execute community service it is possible either to increase the number of hours imposed or to put a minor in a social correction institution is considered as insufficient alternatives for juvenile behaviour correction that at the moment decrease the possible positive effect of community service. In addition, judges consider that their task is to punish, not educate the offender, and they offer that it would be more useful if community service was applied when hearing cases in the commission of administrative matters with participation of a psychologist, social teachers and suchlike specialists. In such case the specialists could at the same time also decide not only on the need of application of community service, but also about the usefulness of a teenager's participation in social behaviour programs.

The data of the study show that attention shall be paid to the fact that the teenager whom community service has been applied to or forced labour has been imposed on, would understand what he has to do and where he has to go to serve the imposed sentence and what would be the consequences in case of failure to observe the rules. To increase the awareness of minors and their legal guardians about the rules of community service and its order of execution, as well as to eliminate common excuses about lack of this information, it would be necessary to agree on a clear procedure how to issue information prepared by the State Probation Service about serving the sentence under supervision of Probation Service to each juvenile delinquent and his parents or guardian. The most useful solution would be to issue informative materials together with a decision of the court because then all important documents are together and are issued together.

If employers found a certain advantage and free labour force for execution of many required works in employing adult performers of the forced labour,

then employing minors (in community service or forced labour) is much more disadvantageous. Attitude of employers is substantially influenced by two aspects. First, minors often are light-minded towards the sentenced community service or forced labour, they do not assess possible consequences of their behaviour, so they are considerably more inconvenient employees in general. Second, the first reason is supplemented by considerably higher security and supervision requirements set to an employer which is employing minors. Suppose the majority of employers are not willing to work with minors, there is a different group of employers which includes schools (but not orphanages), small rural municipalities, where these minors are living, and non-governmental organisations whose managerial staff have a distinct „sense of mission“.

Responsiveness of employers of small rural municipalities proves the interest and supporting attitude towards the inhabitants of their municipality. A „sense of mission“ of non-governmental organisations is based on willingness to rescue, train, love and arose interest to juvenile delinquents in order to change their system of values. Schools which agree to employ their students sentenced to community service find work so that other students do not see that; representatives of other schools consider that it is better to employ students somewhere else to avoid the negative effects caused by shame. It is considered that shame may cause various negative attitudes, highlight or diminish the positive effect of work and penalty (including preventive) and even deepen the deviant behaviour (oriented on social norms and violation).

Employers representing orphanages or schools very often do not want to employ „stranger“ teenagers (not belonging to their institution), a child left without parental care worrying that minors of their institution who are tended to ignore respectful relations with other people or in other words - „difficult teenagers“ will humiliate a person serving the sentence by hindering both serving the sentence, and injuring them morally that deforms ethical principles and system of values of both parties, thus facilitating an opposite reaction to the idea of community service – both proactive and reactive aggression.

As material benefits provided by community service are rather insignificant, it is important to find such employers who highly evaluate social and emotional motivation, i.e. „a sense of mission“. Such employers really are ready to participate, support and help, and do not perceive employing of minors as annoying duty and burden. A qualitative execution of community service requires significant time and work contribution both from SPS employees and employers that often exceeds the potential material benefit from employing a teenager.

The data of the study show that the efficiency of community service and forced labour is increased by the teenager's interest in the set task. The interest arises if the task corresponds to a minor's abilities and general interests, if it corresponds to his energy level and physical capabilities, if it enables to create something or reach a real result (for instance, to harvest, to gather wood that has been piled up before), and if a minor has a possibility

to work in a team together with adults who perform this task daily, whom he can talk to, who assign the task, ask questions and give appraisal.

In general, the data show that more flexible approach is needed for that what kind of tasks a minor may and may not perform taking into account the work safety and its organisation. If a minor sentenced to community service or forced labour is doing auxiliary works or interior decoration works in the construction field as a usual daily job it would be unreasonable to refuse the possibility of performing similar works during the sentence execution. A general evaluation of the physical condition and state of health prior to execution of community service or forced labour would be enough in order to determine what task an employer can entrust to a minor. It should be noted that within the student summer employment activities organized by the State Employment Agency 16 - 17 year old minors are involved in execution of auxiliary works in the construction field, and suitability of each youngster is assessed on the basis of the medical statement of health. So, similar mechanism could be also set in cases of community service and forced labour. It should be noted that such approach would not only enlarge a variety of applicable works to a minor, but that would also somehow motivate employers to participate in employing juvenile delinquents.

If a teenager fails to observe the imposed compulsory measure of a correctional nature - community service, in such case according to the law the State Probation Service employee may submit a proposal about extension of community service duration or its replacement with the only more severe compulsory measure - committal in the social correction institution. In cases of reduction or extension of work hours, as well as in more severe cases - minor's committal in the social correction institution, the decision is within the competence of the judge. In practice it means that the State Probation Service employees and sometimes also employers make a great effort to achieve that a minor performs community service imposed because it is considered that committal in the social behaviour correction institution is inadequately severe penalty applicable only in cases of utmost crisis.

The specialists interviewed in the study note that over the last ten years awareness of impunity has developed in the mind of juvenile delinquents because full attention in public space and everyday life has been devoted to the issues of the children's rights, disregarding the other part, namely, that each individual in a democratic society has not only rights but also duties. Situations arise that juvenile delinquents do not perceive compulsory measures of a correctional nature including community service or a criminal sentence - forced labour as a real punishment - consequences of their criminal offences. From the point of view of juvenile delinquents, unpleasant changes emerge at the moment when criminal liability sets in that envisages more severe sentences for seemingly similar violations committed before.

Taking into account that in cases if community service or forced labour is not executed, the next most severe penalty is committal in a juvenile behaviour correction institution but in compliance with the law the shortest term of committal is already too long for a minor to have motivation to correct his

behaviour in a way that is desired by the society. So it is seen that at the moment in Latvia there is a lack of variety of comparatively less serious types of punishment for minors that would allow ensuring a gradual increase of penal severity if a minor evades serving a less severe sentence or observation of a less serious compulsory measure of a correctional nature.

Although until 19 December 2006 the legal regulations provided for that it was possible to apply a compulsory measure of a correctional nature – application of behaviour restriction to a child that imposed a duty of performing certain actions or refraining from performance of certain actions. Currently such possibility is not effectual anymore but the development of exactly this legal regulation would allow fulfilment of the set objective - to achieve by combining community-based sentences with behaviour restriction that a minor understands his offence and causation „action-consequences“, „violation-penalty“.

To ensure public security and timely behaviour correction of a minor, there should be a clear conformity to natural laws that not only a violation ends up with a penalty but also evasion of serving the sentence reinforces its severity. Inevitable result of violation of serving the sentence is some additional sanctions in order to be able to create a notion on the force of law in due time. Awareness of impunity that is currently characteristic to juvenile delinquents is extremely dangerous not only because of the fact that it facilitates regression of an individual's system of values but because of that it decreases public security that further facilitates formation of different prejudices, intolerance, grounded and ungrounded fear and hate.

It is important here to ensure that a minor perceives even a comparatively mild penalty both as a punishment and as a possibility to break away from the way of life where an offence is a daily routine of a person and his closest surrounding people. For example, punishment is obligatory if community service or forced labour is not executed or is executed carelessly. If today for evasion from execution of community service the State Probation Service employee may submit to the court a motivated written proposal about extension of community service duration or its replacement with a stronger compulsory measure (committal in a social correction educational institution), then this system does not provide for a short-term committal of a minor in a correction institution (for instance, for some days) that would be enough for realization of the possible increase of penal severity and its inevitability.

Motivation to change one's habitual social behaviour model is possible to achieve by combining a punishment with interesting possibilities (participation in extracurricular activities), warm and concerned attitude by adults, professionals involved in behaviour correction and correction of interests (for example, special behaviour correction activities, treatment of addictions, professional orientation).

## **Recommendations:**

- ☑ Information on serving the sentence prepared by the SPS must be: (1) accessible in easy noticeable and lucid information stands in the court halls and/or (2) must be issued together with the written decision of the court.
- ☑ In organizing the execution of community service and forced labour it is recommended to reconsider how reasonable security requirements and regular working hours for employing minors are. It is necessary to create more flexible approach for organization of juvenile work. For example, signing an agreement with a minor and the minor's parents it is possible to employ a minor at works that correspond to his physical maturity, consequently it is possible to achieve also a greater interest in fulfilling the task set.
- ☑ Community service or forced labour must not be allowed to be executed by several teenagers with a tendency to violate norms and values (deviant behaviour) together.
- ☑ It is necessary to develop mechanisms that would allow a minor better understand that application of community-based sentences or a compulsory measure of a correctional nature is a real punishment for violation of law and that the next level is a real committal to a correction institution.
- ☑ It is recommended to re-establish the regulation in the Law "On Applying Compulsory Measures of a Correctional Nature to Children" deleted on 19 December 2006 that by applying a compulsory measure of a correctional nature – application of behaviour restriction imposes a youngster to perform certain actions or refrain from performance of certain actions. Application of behaviour restrictions would be advisable to combine with other compulsory measures of a correctional nature – both a criminal sentence – forced labour, and participation in behaviour correction activities.
- ☑ In order to ensure a possibility of reacting quickly if a minor evades execution of community service, it is necessary to strengthen cooperation between the State Probation Service and administrative commissions, as well as possibly to extend the authorities of the State Probation Service employees to be able to temporarily combine community service and behaviour restrictions and set the requirement for minors to attend social behaviour correction activities.

## I THE THEORETICAL FRAMEWORK OF THE STUDY

### 1.1. Topicality of the problem of juvenile delinquents' behaviour correction

One of the most recent international documents highlighting the issue of juvenile delinquency and social exclusion is European Parliament resolution adopted on 21 June 2007 on juvenile delinquency - the role of women, family and society.<sup>1</sup> It stresses that ever greater anxiety in the world is caused by the spread of juvenile delinquency and the fact that youngsters appear in the world of crime at ever earlier age. Statistics show that the number of crimes committed by children who have not reached the age of thirteen yet is increasing, besides criminal offences committed by juvenile delinquents are becoming ever more cruel. In order to decrease the juvenile delinquency, it is offered to adopt an integrated strategy at a national and European level whose measures are based on the following three guidelines: (1) preventive measures, (2) justice and out-of-court measures, and (3) social integration of all youth.

It can be considered that problems in the field of juvenile delinquency have increased. The following facts underlie the given conclusion:

- ☑ International studies show that there has been an alarming increase in juvenile delinquency over the last two decades.
- ☑ Impact of juvenile delinquent behaviour inherently is more dangerous than adult delinquent behaviour. It affects a particularly vulnerable part of population – minors at an early age which are subject to social exclusion and stigmatization risk right at an important stage of formation of individuality.
- ☑ Absence from school is one of the factors that increases the juvenile delinquency risk.
- ☑ The most important causes of juvenile delinquency are alienation, lack of communication and parents' model of life in the family, psychopathological problems associated to physical and sexual abuse in the family, the failure of an educational system to pass on social values to the youth, poverty, and unemployment. In this context a significant factor is also the tendency of young people to copy behaviour which they develop along with their attempts to form their personality, personality disorders associated to alcohol and drug abuse, and excessive and groundless portrayal of models of violence in mass media.
- ☑ Increase in juvenile delinquency is connected with the growing drug and/or alcohol abuse among the teenagers.

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<sup>1</sup> European Parliament *Juvenile delinquency, the role of women, the family and society*. Adopted in Strasbourg on 21.06.2007. Referred to on 06.07.2007 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+20070621+ITEMS+DOC+XML+V0//LV&language=LV>

- ☑ Development of organized violent juvenile groupings in some countries has caused discussions about revision of regulations relating to juvenile criminal law.
- ☑ Although Europe is facing a gradual reform of criminal law relating to juveniles with an objective to concentrate not on imprisonment but on correction, rehabilitation and therapy, implementation of these new regulations is, however, very often hindered by lack of a modern and suitable material and technical infrastructure and trained specialist staff, a low social interest and limited funding.

A list of recommendations of the European Parliament for the development of national policy includes a range of theses relating to this study. First, in elaboration and implementation of an integrated national strategy it is particularly important to have a social dialogue of all public institutions (involvement of the state, regional and local authorities' representatives, officials responsible for education, families, NGOs, and other interested parties). It is essential to have adequate financial resources available in order to implement radical measures to combat juvenile delinquency.

Second, it is necessary to implement an integrated and effective policy in the field of school, family and education which facilitates heritage of social and civil values, and early youth's socialization in order to effectively combat juvenile delinquency at its root. At the same time it is necessary to develop national policy for prevention of juvenile delinquency also in other fields, including habitation policy, employment, vocational education and entertainment.

Third, special attention should be paid to the families facing economic and social problems: (a) measures are necessary in order to help to provide the basic needs of these people for living space and food that guarantee opportunities of every family member and child to acquire at least primary education and health care; (b) important are also the measures aiming at provision of equal access of these family members to the labour market and social, economical and political activities, thus ensuring healthy and favourable family conditions for the child's development and initial socialization.

Fourth, resources must be budgeted and provided necessary for extension of effective social services provision in the field of psychological and social support, by planning support to the families affected by juvenile delinquency. School and school environment have a special role in formation of a teenager's personality. It is to be taken into account that the characteristic feature of the contemporary school – diversity of cultures and at the same time emphasis of class differences, requires the necessary structures also in educational environment that could interfere, support a student and find the necessary approach in order to prevent violence at school. It is necessary to ensure relevant education to teachers so they could be able to manage heterogeneous classes, apply cooperation-based pedagogical methods in order to prevent stigmatization and exclusion of both the juvenile delinquents and their classmates who have become their victims. Psychological support

and counselling especially for those children who are affected by socialization problems, possibilities of medical care in each school should be envisaged in education policy.

Fifth, the role of youth centres should be enhanced and their quality improved because these centres are a meeting place for young people and the admission of juvenile offenders to such centres would facilitate their social reintegration and encourage a feeling of being a member of society. In connection with the fight against juvenile delinquency it is necessary to introduce measures which will provide alternative forms of punishment, and educational measures at the discretion of the national courts: community service offer, rehabilitation and reconciliation with victims and training which are applied depending on the seriousness of the offence and the delinquent's age, personality and level of maturity. In the area of juvenile delinquency, the conduct and duration of judicial proceedings, the choice of applicable punishment and the subsequent implementation thereof must correspond to the superiority principle of the child's interests and procedural law of each Member State; imprisonment must be applied only as the utmost measure and any prison sentence must be served in facilities suitable for juvenile delinquents.

## **1.2. Policy in Latvia for combating juvenile delinquency**

At present the most current policy document in Latvia determining national policy for eliminating and preventing juvenile delinquency is the Programme for the Prevention of Child Crime and for the Protection of the Child from Crime for the period from 2006 to 2008.<sup>2</sup> This document has been developed by the Ministry of the Interior in cooperation with the Ministry of Children and Family Affairs and other responsible institutions in compliance with Section 64 of the Children's Rights Protection Law. The objective of the programme is to eliminate child delinquency, to prevent factors contributing to delinquent behaviour, as well as to improve children's safety and to protect children from any kind of violence.

According to the subject of the study – „The Role of Community Service in Eliminating the Social Exclusion” it should be stressed that among the activities planned in the policy document there are the following tasks provided for the State Probation Service:

- To implement an effective execution of a compulsory measure of a correctional nature – community service for minors (age of 11 to 18) and a criminal sentence – forced labour for minors (age of 14 to 18), and to ensure regular training to the officers organizing execution of community service and forced labour for minors.

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<sup>2</sup> The programme has been elaborated taking into consideration assessment of the programme „Latvia Appropriate to Children for 2004 to 2007” (approved by the Order No 646 of the Cabinet of Ministers of 22 September 2004) and „Youth Policy State Programme for 2005 to 2009” (adopted at the session of the Cabinet of Ministers on 26 April 2005, Report No 23, Paragraph 35). See <http://ppd.mk.gov.lv/ui/DocumentContent.aspx?ID=5041>



- ☑ Provision of the settlement process in practice related to juvenile offenders including establishment of 38 additional staff positions in the State Probation Service for implementation of the settlement process who have relevant knowledge in children's rights protection field.
- ☑ To improve the regulatory basis in relation to execution of a compulsory measure of a correctional nature - community service (harmonization of regulations determining community service with legal labour acts; to enlist the duties of a child during execution of community service, as well as to solve an issue relating to duties and responsibility of parents and other legal guardians).

The Ministry of Welfare and its subordinate social service providers have been delegated to implement social rehabilitation provided by the state in relevant institutions for children with addiction to narcotic, toxic or other toxic substances. It is planned to provide social rehabilitation to 63 children every year.

V.Zahars in the work "The Convicted – A Nation in the Nation. Problems of Criminal Penalty Execution", analysing court statistics about juvenile convicts stresses that „the fact that 22.1% of all juvenile convicts who have been imposed a real imprisonment and got imprisoned is worrying and indicates on an indifferent attitude towards the future of the nation. Imprisonment leaves a destructive impact on juvenile persons taking into account peculiarities of their emotional, mental and intellectual maturity, influence substantially their awareness and behaviour, and most of all it increases a possibility of a recidivism of crime even up to 80 percent”<sup>3</sup>.

Ilona Kronberga in the article „Children test the boundaries”, analysing criminalization situation of offences committed by children in Latvia stresses that a minor has his special needs related to the important stage in a person's development: „The child reaching the age of eleven experiences new emotions, events and changes, and his immature mind and continuously growing little life experience have to cope with that. If around the age of eleven physiological processes are dominating then already around the age of fifteen and later they acquire ever bigger social basis. The child is looking for his place in society and appreciation by others. [...] is looking for his place and environment”.<sup>4</sup> I.Kronberga reminds that the special needs of youngsters shall be taken into consideration so seriously that they have even been included in the acts adopted by United Nations Organization, namely, in the Riyadh Guidelines: „... consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood”.<sup>5</sup> UNO Guidelines for the

<sup>3</sup> Zahars V. *The Convicted – A Nation in the Nation. Problems of Criminal Penalty Execution*, Riga, Zvaigzne ABC, 2005, page 17.

<sup>4</sup> Kronberga I. *Children test the boundaries*. Published in the web portal Politika.lv on 13.02.2007. Referred to on 26.06.2007.

<http://www.politika.lv/index.php?id=13343>

<sup>5</sup> Human Rights – Collection of International Treaties: Volume I (Part One) – Universal Treaties; United Nations, New York and Geneva, 1994- UNO Guidelines for the Prevention

Prevention of Juvenile Delinquency admit the need for elaboration of progressive delinquency prevention policy that should avoid criminalizing and penalizing a child for behaviour that does not cause serious harm to others, but penalizing could seriously harm the development of the child. „Such policy and measures should include: specialized philosophies and approaches for crime prevention that are based on laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions“<sup>6</sup>.

**Table 1. Breakdown of European States by the rate of juvenile prisoners in 2002 to 2007**

<b>State (year*)</b>	<b>Juvenile prisoners % of all prisoners</b>	<b>Number of all prisoners per 100,000 inhabitants (2006)</b>
The Netherlands (2006)	9,7	128
Greece (2001)	6,9	90
<b>Latvia (2005)</b>	<b>2,7</b>	<b>292</b>
Russia (2002)	2,5	624
Ukraine (2004)	2,4	345
Austria (2005)	2,3	105
Belarus (2006)	2,0	426
Estonia (2005)	2,0	333
Lithuania (2005)	1,8	235
Ireland (2006)	1,7	72
Croatia (2006)	1,5	87
Poland (2004)	1,3	239
France (2006)	1,1	85
Slovakia (2007)	1,0	155
Italy (2006)	0,7	67
Denmark (2004)	0,6	77
Norway (2006)	0,3	58
Belgium (2006)	0,3	87
Sweden (2005)	0,2	82
Finland (2007)	0,1	75

Source: <http://www.prisonstudies.org>

Note: Selection included those European States where data is available about juvenile convicts (up to age of eighteen).

\* The table indicates the year for which the most recent data is available about the rate of juvenile prisoners in the relevant state.

Among other European States Latvia takes the fifth place for the number of prisoners per 100,000 inhabitants (see Table 1). That is a very high number comparing to other Central and Eastern European countries. In terms of the number of juvenile prisoners, Latvia has one of the highest rates in Europe (the number of juvenile prisoners per 100,000 inhabitants in Latvia is 10.8, in

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of Juvenile Delinquency (The Riyadh Guidelines), UNO General Assembly resolution 45/112 of 14 December 1990, Article 5(e).

<sup>6</sup> The same, Article 5(b).

comparison with the Czech Republic – 4.8, Finland -1.7, Bulgaria 1.6, Denmark 0.3, Norway – 0.2<sup>7</sup>). Table 1 shows that the rate of juvenile prisoners of the total number of prisoners in Latvia is rather high - 2.7%.

Situations in Latvia in the area of juvenile delinquency show that currently there is a lack of effective alternative ways of responding apart from imprisonment institutions. Janeks Bahs, the Senior Inspector of the Police Administration of Tukuma region draws an attention in the article „The Irresponsible Answer of the Authorities to Children” to the fact that just “shaking a finger” or warning about a committed criminal offence assures the child of impunity and does not refrain from commitment of new offences. „Whereas, committal in a social correction institution is the second extreme and should be applied only in cases when there is no other possibility and a minor’s presence in the society becomes a real threat to others. In order to combat juvenile delinquency effectively the golden mean was found - behaviour restrictions and community service. As of 1 January 2005 when the Law adopted at the end of 2002 „On Applying Compulsory Measures of a Correctional Nature to Children” came into force they became important instruments in performing a correctional work with juvenile offenders”.<sup>8</sup>.

Until amendments of 19 December 2006, the Law provided for that by applying a compulsory measure of a correctional nature – application of behaviour restriction the child had a duty to perform certain actions or refrain from performance of certain actions. Respectively, it was possible to apply to a child one or several behaviour restrictions for a term of 30 days to 12 months. The possible behaviour restrictions were as follows:

1. to prohibit visiting definite public places;
2. to prohibit meeting certain persons;
3. to impose a duty to stay in one’s place of residence at a certain time of the day;
4. to impose a duty to arrive for registration periodically (one to four times a month) at the Orphan’s Court (the Parish Court), at the Children’s Rights Protection Centre, at municipal social service or other institution determined by an applicatory body of a compulsory measure of a correctional nature;
5. to impose a duty to participate in social correction or social help programmes;
6. to impose a duty to attend an educational institution or to continue work;
7. to impose a duty to go to a psychologist, doctor or specialist for a consultation.

J.Bahs stresses that “the court or administrative commission was able in the most efficient way to educate a juvenile offender and to influence the causes

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<sup>7</sup> Zahars V. *The Convicted – A Nation in the Nation. Problems of Criminal Penalty Execution*, Riga, Zvaigzne ABC, 2005, the same, page 16.

<sup>8</sup> Bahs J. *The Irresponsible Answer of the Authorities to Children*. Published in the web portal Politika.lv on 27.02.2007. Referred to on 26.06.2007. <http://www.politika.lv/index.php?id=13343>

of the delinquent behaviour exactly by applying this kind of penalty. If a youngster was roving then it was possible to impose a duty to stay at the place of residence in the evenings; if a youngster was using alcohol it was possible to impose a duty to go to a narcologist or any other specialist; and if a youngster was not attending school it was possible to impose a duty to attend school, etc. If he did not perform this duty, then the court could substitute it with a stronger measure, even with a committal in a social correction educational institution"<sup>9</sup>.

J.Bahs indicates that „it was possible to help them, to help their parents in the upbringing process and at the same time to protect the society. This law placed Latvia alongside with the leading countries in the world in the prevention of juvenile delinquency and justice because it was in line with the most recent verities about the work with young people of this category. [...] In the places where people knew and wanted to use the new possibilities, this law gave very good results and helped many youngsters to arrange their lives and focus on activity that is useful for the community. [...] The court imposed a warning on the majority of juvenile offenders but to recidivists and serious criminal offenders the court applied exactly behaviour restrictions (to attend an educational institution and stay at one's place of residence at a certain time of day etc.) Later, if these restrictions were not executed, they were substituted with community service"<sup>10</sup>. However, funding was not allocated to the municipalities from the state budget to monitor these provisions, and due to deficiency of funding the most acceptable solution was withdrawal of behaviour restrictions from the law in compliance with amendments of 19 December 2006.

Data show that currently in Latvia it is still important to reduce the number of prisoners without threat to public security which means to solve effectively the urgent problem in Latvia – to change the criminal policy and court practice, particularly with regard to juvenile persons. According to European Parliament resolution on juvenile delinquency guidelines with regard to improvement of justice measures and using V.Zahars' recommendation, the first important step in this field should be an elaboration and implementation of Juvenile Penalty Law (Juvenile Justice Law).

In connection with the fight against juvenile delinquency it is necessary to develop and improve the forms of punishment that are alternative to imprisonment, community service, as well as rehabilitation, mediation, training and other educational measures at the discretion of the courts. The choice of the applicable penalty and subsequent implementation thereof must correspond to the superiority principle of the child's interests, and imprisonment (in facilities suitable for juvenile delinquents) must be applied only as the utmost measure. Provision of special budget resources for

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<sup>9</sup> Bahs J. *The Irresponsible Answer of the Authorities to Children*. Published in the web portal Politika.lv on 27.02.2007. Referred to on 26.06.2007 <http://www.politika.lv/index.php?id=13343>

<sup>10</sup> The same.

implementation of preventive measures against juvenile delinquency is as important as improvement and amendment of the regulatory basis.

Further sections will give a description of currently existing legal basis and a criminal sentence – forced labour, and a compulsory measure of a correctional nature – community service to minors.

### **1.3. A definition community service and its target group**

Community service for minors is a compulsory measure of a correctional nature. Compulsory measures of a correctional nature may be applied to children of age 11 to 18 if offences or violations have been committed for which criminal liability or administrative liability is provided for in the law. It is set forth in the Criminal Law that the criminal liability sets in at the age of fourteen, so application of a compulsory measure of a correctional nature is related to two different basic age groups:

- A. children aged 11 - 13 years for whom criminal liability can not be applied, and only administrative liability may be imposed on them having the only possible sanctions – application of a compulsory measure of a correctional nature<sup>11</sup>;
- B. the court may impose on teenagers and youngsters of age of 14 to 18 years in accordance with regulations of the Criminal Law a measure of a correctional nature or sentence conditionally.

The second group, i.e. minors of age of 14 to 18 years comply with peculiarities of the criminal liability set forth in Section 7 of the Criminal Law. In fact, the four basic sentences may be applied to minors: an imprisonment, a custodial arrest, the forced labour, a fine, as well as additional punishments provided for in the Criminal Law, however, the court may, upon assessment of circumstances of committing a criminal offence and a personality of the offender, release a minor from the punishment adjudged by applying compulsory measures of a correctional nature specified by law. Whereas, serving of a sentence shall be completed if a minor, who has been released from it, has not fulfilled the obligations imposed by the court during the period of the punishment adjudged. Likewise in case of imposing a conditional sentence upon a minor, the court may also prescribe compulsory measures of a correctional nature, but if the person upon whom the suspended sentence has been imposed does not fulfil the obligations imposed upon him or her by the court, the court, pursuant to a application submitted by the institution which has been assigned the supervision of the behaviour of the convicted person, may make a decision regarding serving of the sentence determined for the convicted person, or extension of the term of probation for one year.

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<sup>11</sup> Saeima of the Republic of Latvia. *Law „On Applying Compulsory Measures of a Correctional Nature to Children”,* Section 11, "Latvijas Vēstnesis", 2005 – 2007 Amended law of 01.01.2007.

Thus, in general compulsory measures of a correctional nature are applied to children who have committed:

- ☑ a criminal offence and whom the court has released from the sentence imposed;
- ☑ a criminal offence and whom the court has imposed a conditional sentence;
- ☑ an offence envisaged in the Criminal Law regarding which a decision is made on dismissal of a criminal procedure and delivering materials to the court, or for which a procedurally authorized official has established that it has been committed by a child having not reached the age of 14, and regarding whom has made a decision about refusal to start a criminal procedure and send materials for departmental examination;
- ☑ a violation regarding which a decision is made on delivering a case of administrative violation or materials to a municipality's administrative commission for application of a compulsory measure of a correctional measure.

At the moment the Law<sup>12</sup> sets forth that the following compulsory measures of a correctional nature may be applied to children:

- ☑ to give a warning;
- ☑ to impose a duty to apologize to victims if they agree to meet the guilty person;
- ☑ to give a child under the pledge of parents or guardians, as well as other persons, institutions or organisations;
- ☑ to impose a duty to prevent the consequences of harm with his or her work;
- ☑ having reached the age of 15 and who has his or her own earnings, - to impose a duty to reimburse the harm caused;
- ☑ to impose a duty to perform community service;
- ☑ to commit in a social correction educational institution.

It is set forth in the Law that the given measures are imposed in order to reach the following objectives:

- ☑ development and strengthening in a child the orientation of values adequate to general public interest;
- ☑ a child's orientation on refraining from illegal actions;
- ☑ reintegration into society of a child with deviances in social behaviour.

In case of administrative responsibility or violations it is possible to apply the first five compulsory measures of a correctional nature mentioned above. Besides compulsory measures of a correctional nature a child may be imposed a duty to undergo treatment of alcohol, drugs, psychotropic and other addictions. Unlike the goal of a punishment „to punish the offender for a committed criminal offence“ envisaged in the Criminal Law, the goal of compulsory measures of a correctional nature is not “to punish” but to prevent juvenile delinquency.

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<sup>12</sup> Saeima of the Republic of Latvia. Law „On Applying Compulsory Measures of a Correctional Nature to Children“, Section 6, “Latvijas Vēstnesis”, 2005 – 2007 Amended law of 01.01.2007.

The Law "On Applying Compulsory Measures of a Correctional Nature to Children" sets forth that community service is an involvement of a child in doing community work that is performed by a child without remuneration in the area of residence in the free time outside the regular employment and studies. The duty to perform community service may be imposed to a child for a term of ten to forty hours. The order of community service, prohibitions and restrictions in employing a child are set forth by the Cabinet of Ministers (namely, Regulation No 502 of the Cabinet of Ministers of 12 July 2005 "The Order of Application of a Compulsory Measure of a Correctional Nature – Community Service to Children").

#### **1.4. Order of community service execution**

As of 7 April 2005, the State Probation Service commenced the execution of community service for minors (previously it was a function of municipalities). In organizing execution of community service the child's age, education and skills are taken into account. Children are employed in easy works that are not harmful to their health, for example, cleaning and improving school territory, wood piling, auxiliary works in library and school refectory, preparation of room decors and decorating of premises etc.<sup>13</sup>.

The State Probation Service (SPS) concludes a gratuitous agreement with employers – state or municipal institutions, enterprises, agencies or non-governmental organizations on employing children in the community service. It is allowed to employ children in the community service no more than two hours a day (on working days or holidays) and no more than ten hours a week. It is forbidden to employ children after 8:00 p.m.

If an institution or an organisation has concluded an agreement with the State Probation Service on employing children, thus becoming an employer, the duties of the institution or organisation are the following:

- ☑ to draw up and submit a work schedule to the State Probation Service prior to commencement of the particular work, as well as to submit an updated work schedule in case of changes, and to ensure completion of a form with registration of hours worked by a child in compliance with hours worked in practice, and to submit the completed form to SPS;
- ☑ to assign the particular work to a child and to monitor its execution;
- ☑ to create work conditions pursuant to the labour protection requirements, and to introduce the child with the labour protection regulations and work order;
- ☑ to provide a child with tools, instruments and work protection resources required for performance of the work;
- ☑ on request by SPS to provide information about the number of hours worked by a child;

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<sup>13</sup> Information provided by the State Probation Service. [www.probacija.lv](http://www.probacija.lv)

- ☑ to inform SPS if a child does not observe the terms of community service execution or evades the work.

The State Probation Service, taking into account the age, place of residence, education and skills, finds an employer to a child who is imposed a compulsory measure of a correctional nature - community service. For the first time the child comes to the employer together with an official form the State Probation Service but further he or she comes independently or together with a parent or other legal guardian.

During execution of community service the official meets with the child, discusses the process of community service execution and the problems related to it, if such have arisen. The SPS controls how the child performs community service communicating regularly with an employer to receive information on execution of community service, and arriving to the employer to check how the child is executing community service in practice.

Information collected by the State Probation Service shows that in 2005 77 court decisions have been received on application of community service and 73 children registered for community service. Until 1 January 2006 execution of community service was completed in 53 cases out of which the hours imposed in the court's decisions had been worked in all cases (consequently, approximately in 73% cases community service was fully executed). In 2006, 105 new cases of community service were registered<sup>14</sup>.

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<sup>14</sup> Information provided by the State Probation Service. [www.probacija.lv](http://www.probacija.lv)



## II THE STUDY OUTLINE AND DATA COLLECTION METHODS

The support of the society and field professionals is important for application of community service as a compulsory measure of a correctional nature and development of a correction system of juvenile social behaviour. Within the study the point of view of judges, employers and society was found out. The following research activities were carried out:

- ☑ In-depth interviews with judges;
- ☑ In-depth interviews with employers;
- ☑ Public opinion poll.

At the same time the study "The Role of Forced Labour in Eliminating Social Exclusion" was carried out and within the study 15 in-depth interviews with the State Probation Service employees were performed. As the forced labour and community service both have a common goal and their execution is monitored by the same employees of the State Probation Service, questions about the problems of community service execution were asked within the study on the forced labour. All professionals were interviewed both about the forced labour and community service also in other target groups, if it was possible. The italicized text in the study report gives quotations from interviews with judges, employers and the State Probation Service employees (the latter – obtained within the study "The Role of Forced Labour in Eliminating Social Exclusion"). In order to separate each group's opinion, the target group is given in the brackets after the quotation, for instance, „a judge“, „an employer“ or „a SPS employee“.

### 2.1. In-depth interviews with judges

In total 20 in-depth interviews were performed both in Riga and in all regions of Latvia with judges who had applied a compulsory measure of a correctional nature – community service. The aim of in-depth interviews was to obtain a deeper view on the efficiency of community service as a compulsory measure of a correctional nature to minors, to determine the attitude towards the execution institution (the State Probation Service). According to the objective the following tasks were set:

- ☑ To find out rational and emotional factors on the basis of which the decision is made on application of community service;
- ☑ To evaluate the restrictions set in regulatory acts on application of community service;
- ☑ To evaluate the judges' perception of their role in eliminating the social exclusion risk for juvenile offenders;
- ☑ To evaluate the judges' previous experience in co-operation with penal execution institutions (the State Probation Service) and their capacity ensuring the execution of community service.

## 2.2. In-depth interviews with employers

Within the study 20 in-depth interviews with employers were performed both in Riga and regions of Latvia. The aim of in-depth interviews was to obtain a deeper view on the efficiency of community service as a regulating mechanism of social behaviour and the employers' motivation to participate in employment activities, as well as to determine the attitude towards the monitoring institution of community service (the State Probation Service). The following tasks were set for the activity:

- ☑ To find out rational, social and emotional factors on the basis of which the decision is made on participation in organizing community service for minors;
- ☑ To obtain assessment of co-operation experience in terms of risk, loss and benefit;
- ☑ To accumulate information about examples of a positive practice;
- ☑ To evaluate the employers' perception of their role in eliminating the social exclusion risk for juvenile offenders;
- ☑ To evaluate the previous experience in co-operation with monitoring institutions of community service.

## 2.3. Public opinion poll

The aim of the public opinion poll was to measure the public knowledge of community service and its nature. The following tasks were set for achieving the objective:

- ☑ To measure the level of awareness of community service and its application;
- ☑ To find out the prevailing public opinions on the social benefit and loss of application of community service.

The public opinion poll was performed within the period from 14 May to 19 June 2007 covering all inhabitants of Latvia of age 15 to 74. 1000 respondents were polled within the study performing direct interviews at places of residence. A selection of respondents was done according to principles of a multi-step stratified sampling. In order to acquire 1000 valid interviews 2067 contacts with potential respondents were made. The poll was performed in co-operation with SIA „Sociológisko pētījumu institūts”.

## **III THE STUDY RESULTS**

A report of the study results consists of four sections. First, the public attitude towards community service and punishing of juvenile offenders in general, and field professionals' (judges' and the State Probation Service employees') attitude towards community service was explored, also comparing to the forced labour. Second, the process of sentencing a compulsory measure of a correctional nature – community service, will be considered. Third, a vital section covers characteristics of problems of practical execution of community service both from the point of view of employers and the SPS employees. Finally, efficiency of community service is analysed and recommendations of increasing it are proposed.

### **3.1. The society's and field professionals' attitude towards community service**

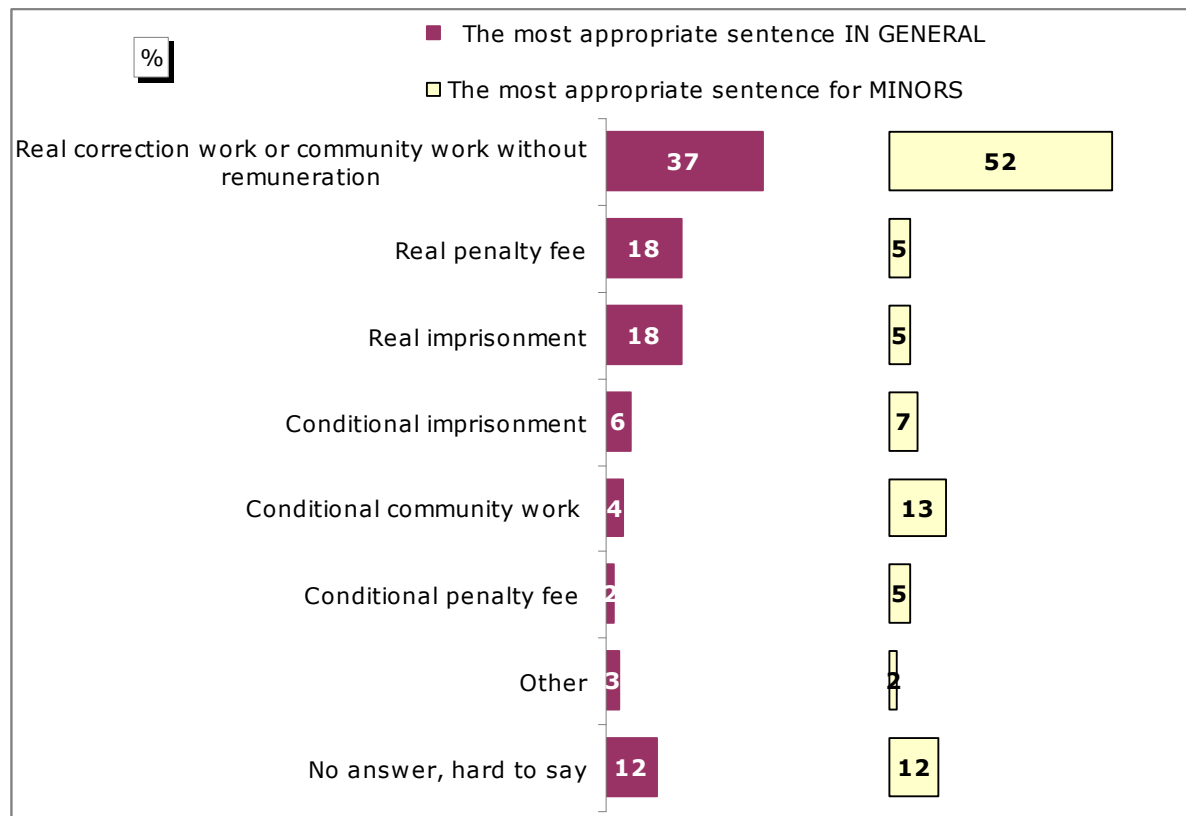
The support of the society and field professionals (judges and the State Probation Service employees) is important for correction of juvenile offenders' behaviour by application of compulsory measures of a correctional nature or community-based sentences. According to the methodology of the study, the attitude towards community service was clarified in various target groups directly related to application and provision of community service as a compulsory measure of a correctional nature (hereinafter in the text – community service). The interviews involved those judges who have applied this kind of correctional measure in their practice, conforming to the study „The Role of Forced Labour in Eliminating Social Exclusion“, the State Probation Service staff responsible for organization and provision of community service execution and employers ensuring practical execution of community service.

#### **3.1.1. Public recognition of community service**

The public opinion poll covering inhabitants of Latvia of age 15 to 74 set two questions. The first question was asked what they consider the most appropriate type of punishment for committing theft, fraud, hooliganism, driving under intoxication of alcohol or other substances (without causing a car accident) and other similar violations (hereinafter – less serious offences). The second question was asked about the most appropriate type of punishment to prevent a minor from further offences. In responding to both questions the respondents were asked to choose one, to their mind the most appropriate type of punishment from the given options of answers in general and in penalizing juvenile persons, or to mention other type of punishment that was not given in the options of answers and that the interviewer recorded during the survey.

Figure 1 shows the breakdown of responses to both questions: Column 1 reveals the respondents' answers of the most appropriate type of punishment in general in penalizing juvenile persons.

**Figure 1. The most appropriate punishment for less serious criminal offences and prevention of minors from further offences**



Source: Public opinion poll, Latvian inhabitants of age 15 to 74 (n=1000 respondents).

Definition of questions in the questionnaire:

The most appropriate sentence IN GENERAL – What do you consider the most appropriate type of punishment for committing such criminal offences as theft, fraud, hooliganism, driving under intoxication of alcohol or other substances (without causing a car accident) and other similar violations?

The most appropriate sentence for MINORS – In general, what type of punishment do you think would refrain a MINOR from committing further violations or criminal offences?

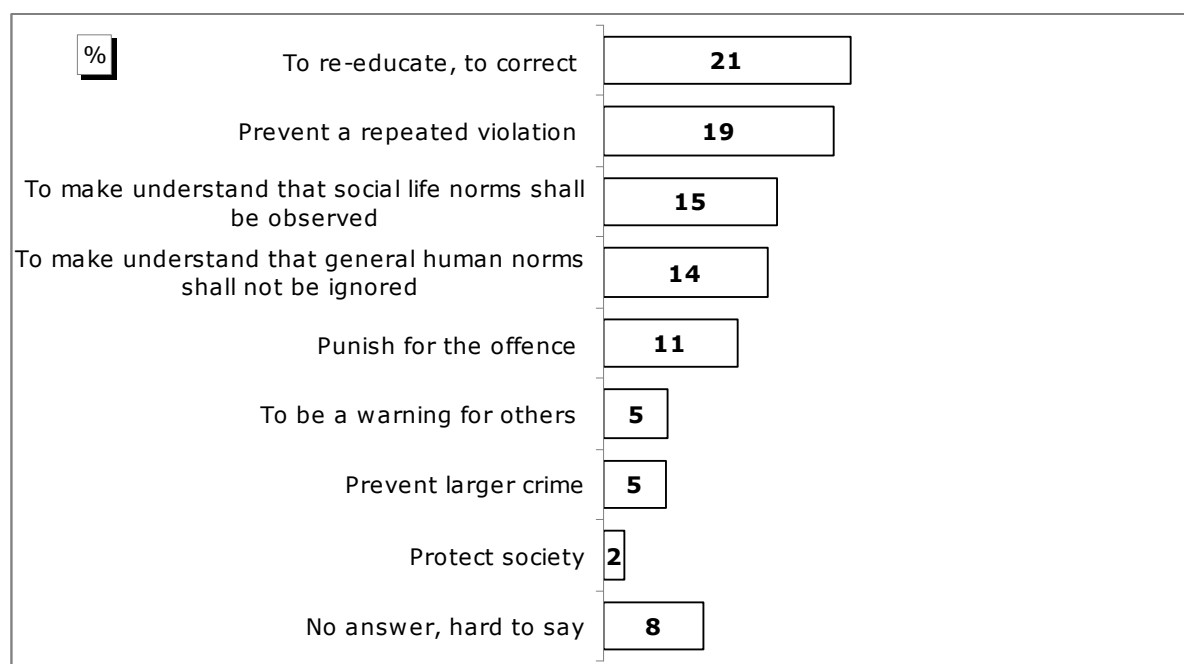
The respondents consider that the most appropriate punishment for committing less serious criminal offences is a real correction work or work for public benefit without remuneration (37%). The respondents mentioned as frequently a real penalty fee and real imprisonment as an appropriate type of punishment for committing less serious criminal offences (18%). Responding to the question about the most appropriate type of punishment for penalizing juvenile persons, the respondents most often mentioned real correction works that by nature corresponds to a compulsory measure of a correctional nature - community work, or a criminal sentence - forced labour. More than a half of respondents (52%) have mentioned real correction works as the most appropriate measure for penalizing juvenile persons. The second most often mentioned type of penalty for prevention of juvenile persons from further offences is a conditional correction work (13%). Other types of punishment –

a real penalty fee, a real imprisonment, a conditional imprisonment and a conditional penalty fee as the most appropriate for penalizing minors, respondents have mentioned rarely – from 5% to 7%. 2% of the respondents interviewed have named other punishments that were not mentioned in the survey, including: corporal punishments or „whipping“, warning, correctional works and not to apply any type of punishment because in this case parents get more punished than a juvenile offender.

It was essential in the study to compare opinions of inhabitants who have and who do not have minors. Both subgroups admitted real correction works or works for public benefit without remuneration as the most appropriate type of punishment for minors. Differences were observed only in cases when there were considered other punishments that were more rarely admitted as appropriate in the survey. If a respondent had children of age of up to 18 years, they more frequently mentioned conditional punishments as the most appropriate punishments for minors: a conditional imprisonment, a conditional penalty fee and conditional correction works. If a respondent did not have children of age of up to 18 years, a real penalty fee and real imprisonment were mentioned. Real correction works for public benefit are supported by people with higher education.

The most often mentioned argument for the fact that real correction works would be appropriate for minors is the following: (1) this type of punishment disciplines and teaches the work, (2) it gives a possibility to think over the offence, and (3) the work is without remuneration. More seldom the following reasons were mentioned: (1) correctional works is such type of penalty that gives a possibility to correct one's behaviour, (2) work performance takes the free time of minors therefore there are no great possibilities to repeat the offence, (3) correctional works teach responsibility, (4) the given punishment is a good warning, (5) it creates a sense of shame for the offence, and (6) an offender is taught to observe the norms and values of society. People consider that imposing correctional works to minors gives benefit both to the society in general – cleaner environment, work for public benefit is performed, and it is also a material benefit for the state and an employer. In certain cases a real correction work was mentioned as the best alternative to other types of punishment, for example, it is indicated that (1) a prison is not the best place where to correct one's behaviour, (2) correction work is more appropriate than a penalty fee because minors mainly do not earn themselves, and (3) to do correction work is more difficult than to pay a fee.

All respondents of public opinion poll were asked to name one, the main aim of the punishment (regardless of the method applied) penalizing a minor for less serious offences or violations. Figure 2 shows the breakdown of responses to the question.

**Figure 2. The main motives of the punishment for less serious criminal offences for minors**

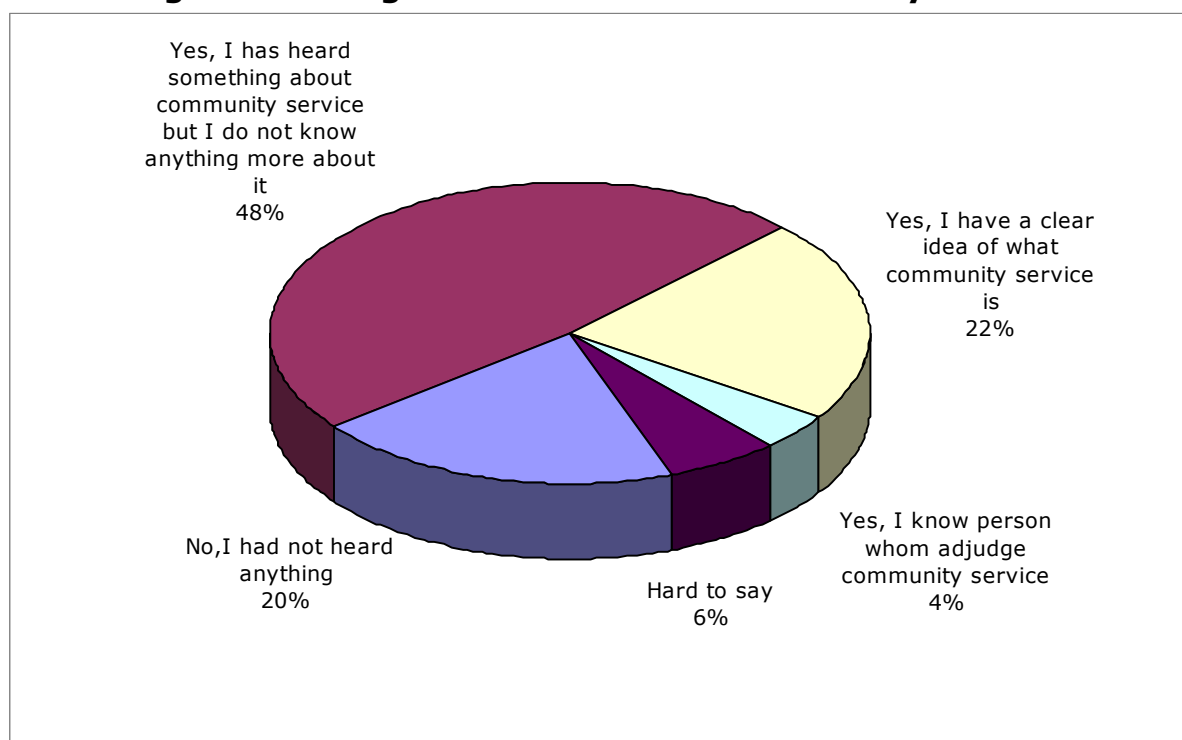
Source: Public opinion poll, Latvian inhabitants of age 15 to 74 (n=1000 respondents). Definition of a question in the questionnaire: What do you consider to be the main aim of the punishment penalizing a MINOR for less serious crimes or violations?

In most cases the respondents have mentioned that the aim of a minor's punishment must be (see Figure 2): to re-educate, to correct (21%), to prevent a repeated violation (19%), to make understand that social life norms shall be observed (15%), to make understand that general human norms shall not be ignored (14%), and to punish for the offence (11%). If respondents have children of age of up to 18 years, they say more frequently that the main aim of punishment is: to make understand that general human norms shall not be ignored (15%) and as a preventive measure – to be a warning for others (7%). If respondents do not have minors they more frequently consider that the main aim of the punishment is: to re-educate or to correct (23%), and to punish for the offence (14%).

Respondents, who considered a real correction work as the most appropriate punishment for penalizing minors, most often mentioned as the aim of the punishment: (1) to re-educate, to correct and (2) to make understand that general human norms shall not be ignored. If respondents considered a real penalty fee and a conditional imprisonment or a real imprisonment as the most appropriate for minors, then they mentioned most often as the aim of the punishment: (1) to punish for the offence, (2) to re-educate, to correct and (3) to prevent a repeated violation. Respondents who consider a conditional correction work and a conditional penalty fee as the most appropriate punishments for penalizing minors, most often as the main aim of these punishments mentioned: (1) to re-educate, to correct and (2) to prevent a repeated violation.

Regardless of the fact that a part of the survey questions drew attention to the essence of the punishment, i.e. a correction work for public benefit without remuneration, it was found out within the survey whether the inhabitants of Latvia know or have heard something about a compulsory measure of a correctional nature to minors – community service. This question was asked along with a question regarding respondents' opinion also about a criminal sentence – forced labour. Although a compulsory measure of a correctional nature - community service and a criminal sentence – forced labour may be applied to juvenile persons for committing less serious criminal offences, the forced labour in the further analysis of the survey results was mainly referred to adults, but community service – to juvenile persons.

**Figure 3. Recognition of the term „community service“**



Source: Public opinion poll, Latvian inhabitants of age 15 to 74 (n=1000 respondents).  
 Definition of a question in the questionnaire: Do you know or have heard anything about a compulsory measure of a correctional nature for minors – community service?

Regardless that the majority of respondents mentioned a correctional work or work for public benefit without remuneration as the most appropriate punishment for minors, respondents' knowledge about community service is very superficial (see Figure 3): almost a half of respondents (48%) has heard something about community service but they do not know anything more about it. 22% have a clear idea of what community service is, and approximately the same number of respondents (20%) has not heard anything about such a compulsory measure of a correctional nature for minors.

In the public opinion poll, respondents were asked to assess how often to their mind community service should be applied for committing less serious criminal offences. Assessment was given in a 5-grade scale where 1

corresponds to „as seldom as possible“ and 5 – „as frequent as possible“. The average assessment by Latvian inhabitants on how often community service should be applied to minors for committing less serious criminal offences is 4.2 points, i.e. frequently. Women more often than men consider that community service should be applied to minors as frequent as possible. The fact that community service should be applied as frequent as possible mainly is accepted by Latvian inhabitants whose income can be estimated as high or who have minors.

### **3.1.2. Judges' attitude towards punishing juvenile offenders**

Judges believe that juvenile offenders should be considered as a special group that requires a special attention. Several interviewed judges admitted that offences are being committed at ever earlier age. Therefore the attitude towards juvenile violations and their punishing is important to refrain them from committing repeated offences in future. In all target groups of professionals it is considered that the penalty imposed on a minor must be such so he could feel it as a real punishment and could understand that responsibility must be assumed for the offence.

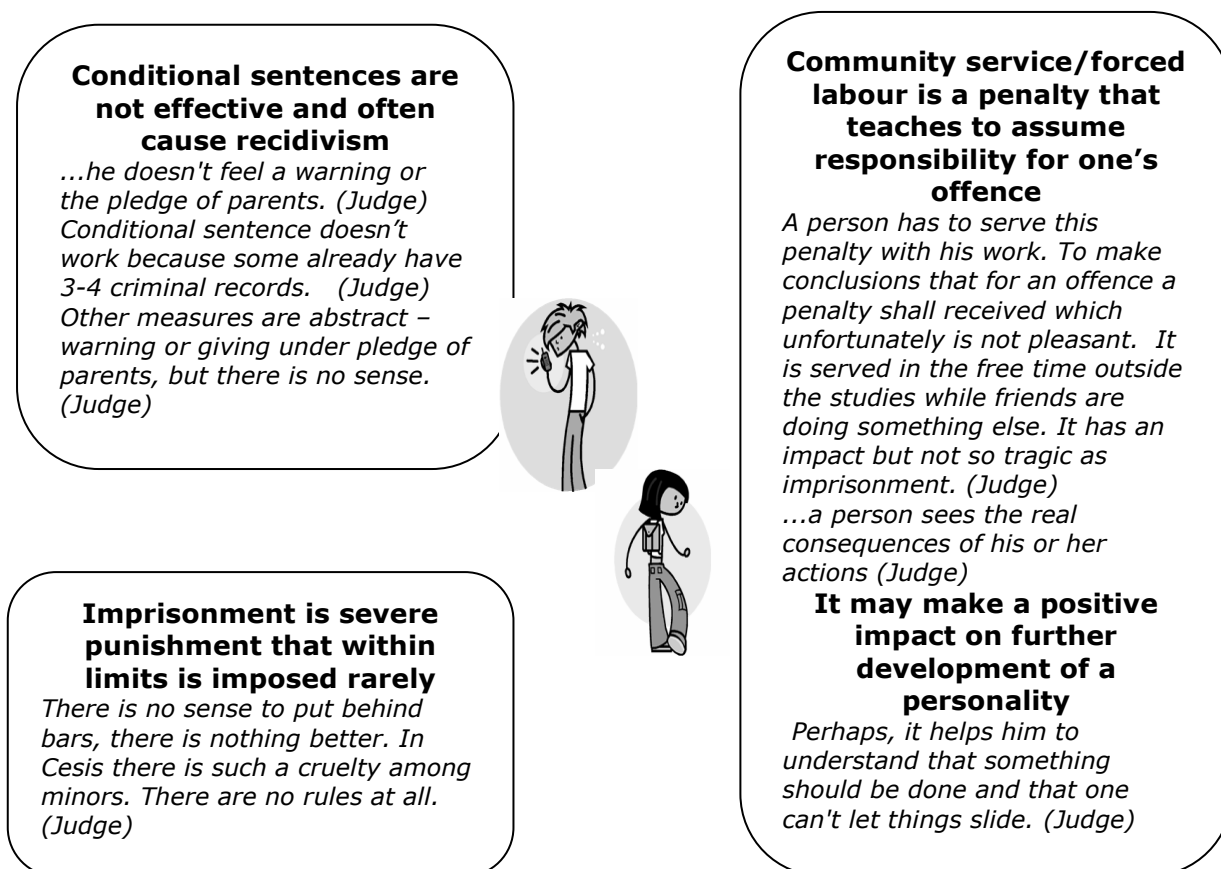
The court is the institution which imposes a punishment therefore the type of punishment applied to a juvenile offender depends on a judge's attitude, willingness to look into each particular case and options offered by the law. A judge's attitude is formed by his or her individual point of view and options defined by the law in assessing the punishment for the offence committed. A judge's conduct in the process of penalty application is both facilitated and limited by legal norms.

Several judges outline a tendency that crime becomes ever more „younger“ therefore a great attention must be paid to penalizing minors. Therefore the attitude of these judges towards penalizing minors is of an essential importance. In relation to penalizing minors judges mention four types of punishment: giving under pledge of parents, a conditional sentence, community service and forced labour, as well as committal in social correction institutions.

Thinking about minors who have committed different violations, judges repeatedly stress the educational aspect of punishment – to achieve that repeated violations are not committed in future. This guiding principle and judges' work experience to a great extent form the attitude towards the types of punishment to minors (see Figure 4):



**Figure 4. The impact of the types of punishment on minors (from the judges' point of view)**



A conditional sentence as well as giving under pledge of parents is characterized as two mild which very often does not yield the expected result (see Figure 4). In certain cases it even forms or reinforces the sense of permissiveness to minors. Judges' experience shows that minors do not understand the nature of a conditional sentence therefore do not perceive it as a real punishment. Judges' practice proves that among the convicts sentenced conditionally repeated violations occur more often.

Nevertheless committal in a social correction institution is perceived as a very harsh punishment. The majority of judges do not support committal of minors in correction institutions if only violation and punishment for it permit it. Committal in the social correction institution is the utmost measure when all other options have been tried and have not given the expected result. Judges consider that with regard to minors imprisonment is not the best type of punishment because practice shows that violations are committed repeatedly. The negative attitude towards committal in the social correction institution comes from the information about internal order of these institutions and life there. Judges are not sure that a social correction institution operates in compliance with its functions, namely, works with re-education of minors.

*It is neither a prison, nor an educational institution, it is nothing. If it [institution] worked in the interests of children then it would not be so bad, if the worst Soviet traditions would not have been preserved in there, [...] a prison has not given anything good to anyone. (Judge)  
The problem is that these social correction institutions are not able to ensure realization of their objectives. (Judge)*

Some of the judges admit that they have no complete information regarding the fact what is happening in social correction institutions or the view about these institutions has been formed by information available in mass media.

*In general there is a lack of knowledge about this institution and the way how it can impact a minor during serving the sentence. (Judge)*

Community service or forced labour to minors is considered as appropriate. The judges consider that work as a type of punishment fulfils two functions:

- creates a sense to a minor that responsibility must be really assumed for one's offence;
- it is likely that by feeling a real punishment a minor will be retained from committing repeated offences (it will affect the development of a personality in a socially accepted direction).

In the course of the study it was found that judges, who in their daily practice do not impose community service as a compulsory measure of a correctional nature, call community service also as the forced labour. Therefore analysing the attitude, everything that is said about the forced labour to minors and everything – about community service as a compulsory measure of a correctional nature is taken into account. In this case the most important is that the punishment is imposed on minors and that the work is considered as a punishment at all. Judges use various notions for community service or forced labour (for example, correction work or community work) emphasizing the connection between work as a type of punishment generally and the punishment exactly for minors.

Speaking about the punishment and compulsory measure of a correctional nature employers and the State Probation Service (SPS) staff state as the main difference the target group (whether punishment is imposed to a minor or to an adult), and not whether it is community service or the forced labour. The SPS employees more often than judges and employers separate community service and the forced labour. However, like judges and employers, the SPS employees emphasize differences of penalty execution for minors and adults.

*Personally me, I am „nursing“ only with minors, and talking to adults in a completely different way. (SPS employee)*

Work as a type of punishment for minors is considered as very appropriate from the point of view of judges, SPS staff and employers. It is important for minors who have committed a violation to receive a real punishment in order

to understand that responsibility must be assumed for one's offence. The judge's and SPS employees' experience shows that a part of minors commits offences through ignorance or stupidity, as well as from the impact of their peers (respectively, in a group). Afterwards, when receiving a punishment it is possible to understand and think over one's behaviour by doing work for public benefit, thus it is a trial to make an impact on a minor's world outlook in order to prevent from willingness to repeat criminal offences in future.

The attitude of all groups of professionals interviewed towards community service as a compulsory measure of a correctional nature is characterized by a statement - *"fee that a real penalty is imposed"*. Exactly in the same manner judges characterize a criminal sentence - the forced labour as appropriate for minors - *„it affects a person more truly and for a longer time; it is better for him to do a real work because he doesn't perceive a conditional sentence as a real penalty"*.

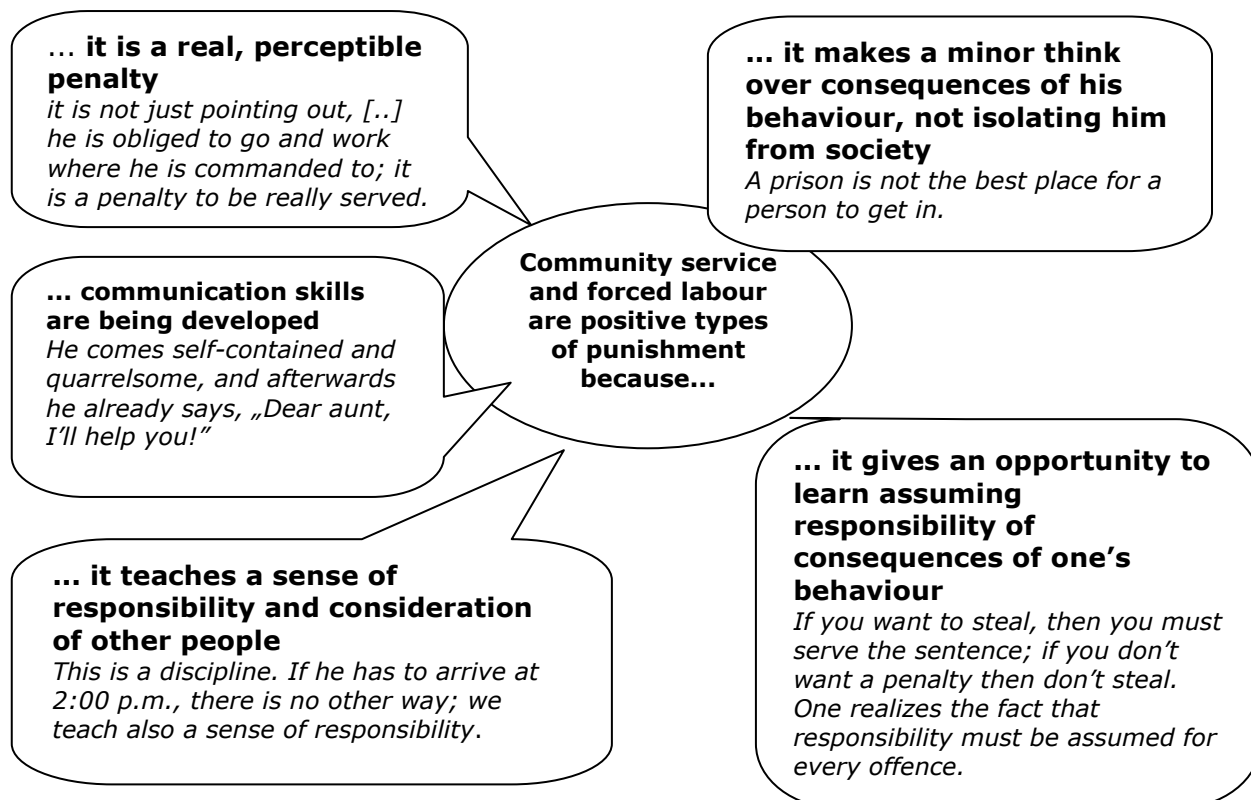
Among minors, punishment has much more wider meaning - on one hand, it is a feeling that one cannot afford to commit offences without staying unpunished and, on the other hand, it is an educational factor that affects formation of the sense of responsibility, integration into society, consideration of other people, development of working skills, and extension of interests. It is particularly important when we focus our attention on minors who come from socially unfavourable environment - work as a measure of a correctional nature is a help for opening eyes to other life models. At the same time judges, SPS staff and employers are aware that in all cases it is not possible to help finding other scenarios for life development; therefore one should be ready for „a negative result“, i.e. regression of a juvenile personality and a greater implication in committing violations („creating of criminal career"). Regardless the fact that a minor will not use and appreciate the possibilities offered, in all target groups the dominating attitude is that as much as possible must be tried and done in order to help a minor. It is necessary to use all possibilities in order to refrain minors from committing further criminal offences because at adolescence personality is just forming and developing, and the younger the offender, the easier is correction of social behaviour if such is possible at all in a particular case (depending on particularities of environment, psyche, experience and potential of alternative behaviour improvement).

*Anyway a minor is an immature personality; he is only at the developing stage. All possible measures should be applied against him; the forced labour would also be upbringing together with work. (Judge)*

In the process of personality forming it is very important to get directions which form value orientations accepted by the society. If it was not possible at home, then other organisations and institutions which may help should be involved. However, as one of the judges admits the court cannot correct that what parents and the family have not done. Therefore work as a type of punishment should not be considered as a wonderful remedy that may solve all the problems. Regardless that, all groups of respondents have found a lot

of advantages in a compulsory measure of a correctional nature and the forced labour (see Figure 5).

**Figure 5. Community service as positive compulsory measure of a correctional nature (summary of all target groups' views)**



Work as a punishment requires minor's active participation in its execution which makes a greater probability that the convicted person will think over its actions and will not commit offences in future.

*It is a very correct and positive measure that the court may impose on minors. If a conditional sentence or a warning is imposed on a person, then the person does not understand the meaning of the punishment, whether there has been a punishment at all, and why such a punishment has been imposed. If the court applies a correction work or community service, then the person understands that there will be something to be done and to be thought over. (Judge)*

*I think it is positive that youngsters come and work, thus serving a sentence. (Employer)*

*Community service is the best solution for children and minors because it has already several compulsory measures of a correctional nature, for example, the pledge is ensured – actually, nothing changes – he stays under the pledge of the mother as before. He doesn't understand it and doesn't take a responsibility. The utmost measure is to send him to social correction institutions; well, it is also not a solution knowing*

*the situation here. Therefore community service is the best solution.  
(SPS employee)*

*Perhaps crime level is so high due to these ridiculous sentences starting from all conditional sentences that are almost like spitting for them. (Employer)*

*If he is about 17-18 year old and he is given a conditional sentence, he doesn't understand anything and continues doing the same. Working is more effective, it is more considered as a punishment. (Employer)*

A positive attitude towards the work as a type of punishment is facilitated by the fact that previous educational principles have caused a situation that children are not used to regular work; in order to employ a student parents' permission is necessary. It is especially stressed by employers because they are the ones who see in reality how minors succeed in executing the work. Work teaches not only some particular practical things but helps acquiring additional skills in organization of one's time and communication with other people.

*Particularly now, we are in an absurd situation because we cannot give youngsters any work to do due to the fact that parents have to write an application to school for every work that they allow their child to do. (Employer)*

*'A child' and 'the work' – these were incompatible notions and thus we have got a 'monkey generation' to a great extent. (Employer)*

One of essential features that is mentioned both by employers and by SPS staff is such that community service is a punishment which creates the sense of responsibility. Serving the sentence teaches the minors not only skills of taking into account other people but also planning and organizing their time in order to manage everything.

*It is necessary to request a personal responsibility from them. Currently the SPS monitors them, calls them every day and interests about them but it is necessary to demand from them to control themselves. (Employer)*

*It is not a secret that by giving such works it will be necessary to stand by him on an ongoing basis. That is rather complicated. I teach them to understand that they have done something bad. This is the discipline. If he has to arrive on 2:00 p.m., there is no other way. Thus we teach this sense of responsibility. (Employer)*

Yet several professionals noted that minors are very different and each of them has a different life experience. Potentially dangerous groups for society are forming from orphanage students who have got there at adolescent age. They are followed by their life experience and behaviour models which are

difficult to change therefore professional help (social workers, psychologists and teachers) is necessary for a long period in order to correct them.

## 3.2. Application of community service

Data considered in the previous section show that, in general, significant obstacles, related to a negative public and professionals' attitude, in application of community service have not been observed. Completely opposite – the society and professionals are more convinced of appropriateness of community service (or the forced labour) for punishing juvenile offenders than appropriateness of the forced labour for punishing adult offenders. It is, however, necessary to find out what the application and execution of a compulsory measure of a correctional nature is in practice. That would help to understand whether it is necessary to change something in the order of application of a compulsory measure of a correctional nature and what the role of evaluation of the offender's personality in sentencing is. These circumstances form the basis of what kind of minors the employers meet with that in its turn forms an attitude also towards community service.

### 3.2.1. Frequency of application of the community service

In accordance with the Law on „The Order of Application of a Compulsory Measure of a Correctional Nature – Community Service to Children” community service may be applied by<sup>15</sup>:

- the court (in criminal cases if children have committed a criminal offence and the court has released them from the sentence imposed or has imposed a suspended sentence);
- a judge of the District or City Court unilaterally (examining the materials sent to the court in cases of a dismissed criminal procedure or in cases if the criminal procedure has not been started because the offence has been committed by a child having not reached the age of 14).

Data of the Courts Statistics Division and the State Probation Service show that community work is not widespread, for example, in 2006, the forced labour was imposed on minors in 214 cases, and a compulsory measure of a correctional nature – community service - in 105 cases. The SPS statistics show that, in 2006, in five (Bauska, Daugavpils, Kraslava, Liepaja, Sigulda and Valka) out of 30 territorial structural units there was no new case made regarding community service for minors. Most often (in 13 regions) some or one to three cases a year are common (Aizkraukle, Dobeles, Gulbene, Jelgava, Kuldīga, Limbazi, Ogrē, Olaine, Rezekne, Rīga, Salaspils, Saldus, Tukums, Valmiera, Ventspils). In 2006, 4-5 cases of community work have been arranged in Balvi, Cēsis and Jekabpils regions but most of all (from 8 to 12 cases) in Jūrmala, Alūksne, Preiļi, Ludza, Talsi and Madona.

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<sup>15</sup> Saeima of the Republic of Latvia. Law „On Applying Compulsory Measures of a Correctional Nature to Children”, Section 5, “*Latvijas Vēstnesis*”, 2005 – 2007 Amended law of 01.01.2007.

Responding to the question how often a compulsory measure of a correctional nature – community service is applied, judges most often answered that rather seldom. First, the main reasons hindering an application of community service for minors involve procedure issues, law restrictions and even gaps in the legal regulations:

- ☑ in general, courts work comparatively little with minors;
- ☑ more often the court releases minors from the sentence;
- ☑ usually in the centre of the court's attention occur such criminal cases where a criminal sentence – the forced labour has been imposed rather actively;
- ☑ compulsory measures of a correctional nature are imposed if criminal cases are dismissed or refused to proceed but in such cases the offences are not so severe to impose community service;
- ☑ In general, very little cases about compulsory measures of a correctional nature are received in courts.
- ☑ Judges consider that special municipality administrative commissions should work with imposing compulsory measures of a correctional nature where there would be employees with special knowledge, for example, teachers and psychologists because the court's competence is observance of the laws and sentencing, but not competence of special needs of children and youngsters. *"When I meet him for the first time I cannot tell that by papers. It is a child; there should be a different approach. A child aged 11-12 years comes and looks at an aunt with a golden chain in a black toga like at a wolf. [...] I consider that the only case when the court should impose compulsory measures of a correctional nature would be the case where there is a discussion about committal of a child in a correction institution. If an administrative commission think that a child must be committed in a correction institution, then they submit an application to the court, and the court considers all the conditions and decides. Until that moment only administrative commission should work with the case with its social workers, psychologists, and teachers. It is necessary to work with a child; he must not be punished, it is necessary to work with him!" (Judge)*
- ☑ A sceptical attitude towards compulsory measures of a correctional nature in general: *"It is not a judge who by the help of the present judgement can change something that the parents, the Orphan's Court or other institutions have failed to do. We can't arrange children's lives by one judgement." (Judge)*

In compliance with a gradation of compulsory measures of a correctional nature defined in the law, community service for minors is the second most severe compulsory measure of a correctional nature (after committal in a social correction institution), prior to which all the conditions and other options are assessed.



- ☑ Judges, first of all, are trying to impose some milder compulsory measure (a warning, the pledge of parents or prevention of the consequences of the harm), in particular, if after evaluation of a child's personality it is seen that already a warning and the judicial proceedings for a minor is sufficiently strong punishment for the offence, and a powerful lesson.
- ☑ When assessing family and household conditions there are cases when the court does not impose community service considering it as a risk for a child's studies that they consider the child's main and direct duty.
- ☑ In cases of serious family problems or in more severe or repeated violations, judges are rather sceptical towards the efficiency of community service, considering that it is necessary to apply committal in a social correction educational institution. *"All minors that come to us have committed serious crimes. [...] Minors usually commit criminal offences in a group. If there are several people in a group and the group has reached the frenzy then there are several episodes. What a compulsory measure of a correctional nature if 22 garages have been robbed!?"* (Judge)

Like in a case of the forced labour, obstacles of imposing community service are related to the possible difficulties in organizing and realizing its execution. It is a rather new compulsory measure, until quite recently it was a responsibility of municipal police and some judges are not convinced of an effective organisation of community service execution. However, the interviewed judges admit that after an active start of operations of the State Probation Service community service is and will be applied to minors ever more.

Yet, in general judges' attitude towards imposing a compulsory measure of a correctional nature – community service, and a criminal sentence – forced labour is positive *"because it is a very correct and positive measure that the court may impose on minors. If a conditional sentence or a warning is imposed on a person, then the person does not understand the meaning of the punishment, whether there has been a punishment at all, and why such a punishment has been imposed.* If the court applies a correction work or community service, then the person understands that there will be something to be done and to be thought over. (Judge) Therefore the main arguments that motivate judges to impose community service on minors are connected with the judges' positive attitude and conviction that the forced labour and community service is almost the only effective type of punishment for minors. The main criterion that defines an application of community service/forced labour is the nature of the offence.

*If it is hooliganism, something is destroyed, it is very good if a child can go and work, and see that is not so easy.* (Judge)

Along with severity of a violation and danger of an offence there is a range of factors that makes the sentence milder or more severe:

- ☑ The previous experience of violations/ administrative violations is considered:
- ☑ Personality assessment that is usually prepared by the State Probation Service plays an important role in juvenile cases:
  - Reference, attitude towards one's duties, studies;
  - Juvenile delinquent's attitude towards an offence;
  - Acknowledgment and regret of an offence and non-existence of aggravating circumstances of guilt.
- ☑ Prior to application of community service, the possible obstacles of execution of community work are assessed:
  - Health problems (on a basis of medical references);
  - Place of residence – those who live far from parish or the centre frequently are not able to go to the place of community service execution;
  - Living conditions.

### **3.2.2. The existent legal regulations and restrictions**

According to Section 66 of the Criminal Law, if the court adjudges that the accused minor has committed a criminal offence but taking into account the particular circumstances of the committing of this criminal offence and information received regarding the personality of the offender, which mitigate his or her liability, may release the minor from the punishment adjudged and apply compulsory measures of a correctional nature specified by law. Whereas, if the minor who has been released from the sentence imposed and applied a compulsory measure of a correctional nature, is not fulfilling obligations imposed by a court, serving of the sentence is executed. Section 4 of the Law "On Applying Compulsory Measures of a Correctional Nature to Children" also sets forth that a compulsory measure of a correctional is applied to children who have committed a criminal offence and whom the court has released from the sentence imposed.

Therefore although such possibility exists the courts are not using it very actively with respect to the community work – two thirds of the interviewed judges had not ever applied it and the majority admitted that they are not very competent in it or had not ever heard anything about it. It is observed that judges feel freer applying the forced labour and effort of taking possibilities to change a criminal sentence – forced labour for a compulsory measure of a correctional nature - community service is not observed.

*If he may be imposed a criminal sentence provided for in the Criminal Law, there is no need for trying to find any other solution. If the sanction specifies this forced labour there is no great need for applying it through another Section of the Law. (Judge)*

Around one third of all judges, though not very often, had applied this clause – releasing the minor from the imposed criminal sentence and applied some compulsory measure of a correctional nature. Most often it is according to Paragraph 3 of Section 175 (for theft, if it has been committed by entering a residential unit or other premises) or Section 231 (for hooliganism) as well as in other cases when the penal sanctions provide for imprisonment only.

Only some of those who had taken a possibility of releasing a minor from the imposed sentence had applied community service as a compulsory measure. Giving under pledge of parents is more often applied.

The judges who have applied the provisions of Section 66 of the Criminal Law appreciate it – that is a way to avoid sending a minor to a social correction institution but at the same time there are clearer sanctions in case of non-performing community service – execution of the criminal sentence imposed. On the other hand the judges consider that in case of adults, an option of a temporary arrest as more severe penal sanction is particularly topical. Unfortunately possibilities of an arrest are not ensured at the moment but imprisonment of minimum 6 months for minors is inadequately severe punishment in case of non-performance of community service or forced labour.

*But here is again this tragic situation that imprisonment of minimum 6 months is possible. Terrible! It is too much! It is the height of absurdity. That is inherited right from the socialistic legal system that was at root build on extremely severe punishments. [...] If there was a possibility to start from 2 weeks, then a perspective to get imprisoned would be quite normal encouragement for these minors. (Judge)*

The interviewed judges approve that apart from the lack of information the main reasons why provisions of Section 66 of the Criminal Law are so seldom used, to their mind are too complicated process and hardly visible benefit. There is a trend observed that in cases of minors the court is trying to take every possible chance to release the child from the sentence and give him a possibility to show that he has changed.

*The order of the legal procedure is complicate. It turns out that we release him from a criminal liability, apply a compulsory measure of a correctional nature and apply community service. He is not performing it and so what comes next? There is no continuation because we have already released him. If he is not performing the forced labour, the court has right to impose another type of punishment within the criminal procedure. If he has been released from a criminal sentence and we move to [a measure of] a correctional nature, the law does not provides for returning back again. (Judge)*

*The same committal in a correctional institution that may be in a way compared to an imprisonment place. There are no any sanctions or responsibility for that what happens in case he runs away from there. The Criminal Law provides for a liability for escaping imprisonment but*

*a compulsory measure of a correctional nature is not imprisonment. And, if he has not reached age of 14 yet and there is no criminal liability, he has no responsibility for that at all. (Judge)*

Those who have gone more into detail remind that the judges should look at the situation from such perspective that by nature community service and forced labour turns out in the same way – the convict shall perform work for public benefit without remuneration.

*That mechanism is not complicated, only more information is to be entered in the resultant section. Two sentences shall be thought of – the sentence that the court imposes and then releases him from execution of that sentence, and applies more appropriate compulsory measure. (Judge)*

### **3.2.3. The role of assessment reports prepared by the State Probation Service in imposing community service**

Assessment reports prepared by the State Probation Service provide a very significant support to judges in legal proceedings of minors, study of personality and imposing the most appropriate sentence. An assessment report is information aggregated by the State Probation Service official about a person accused or put on trial for committing a criminal offence and whom the court or prosecutor's office has required information about from the State Probation Service. An assessment report contains information about the probation clients' current life, work and other household conditions, information regarding consequences of offence for the victim, whether the client has tried to apologize or reimburse the harm as well as the Service's opinion of the respective person and information on the possible terms of supervision. Since 2004 when the SPS started preparing assessment reports, demand for them has rapidly increased – 98 assessment reports were prepared in 2004, 610 reports in 2005 but 2382 assessment reports in 2006<sup>16</sup>.

Thinking about whether before deciding of the most appropriate type of punishment for a minor the court should ask for an assessment report from the State Probation Service about each minor, there is quite big conformity of opinions among judges that such practice would definitely be useful and they would be willing to use it. At the moment the assessment report is not obligatory according to the law but the judge may require it from the SPS in each case. Yet, almost all agreed that with regard to minors the SPS assessment reports might be a compulsory practice, in particular in criminal cases. Some judges who did not consider a compulsory requirement of reports useful, referred to their quite good co-operation with the children rights protection centres, Orphan's courts or schools that provide quite good information in order to save time and work of the SPS staff.

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<sup>16</sup> Information provided by the State Probation Service: [www.probacija.lv](http://www.probacija.lv)

The majority of judges have worked with the SPS assessment reports and apart from designations „good“, „qualitative“, „extensive“, „exhaustive“, „meaningful“ and „useful“ for characterizing them the most frequent used word was „valuable“.

Referring to characteristics given by judges we may conclude that assessment reports are informative enough and provide detailed enough, deep and real insight in the defendant's personality, and may arise the interest of the reader: *„I like to read them over and see what is written there.“* The judges find the summary particularly useful where specific conclusions and recommendations for the choice of the most appropriate type of punishment along with indications on the usefulness of the SPS social behaviour correction programs or additional duties are given.

The reports do not contain anything needless or useless but one may find there:

- ☑ historical record of the family since the moment the child is born, description of family conditions and relationship;
- ☑ description of the environment, interviews with neighbours, relatives, friends;
- ☑ defendant's interests, self-characteristics;
- ☑ description of behaviour and attitude towards life;
- ☑ description of education, references from school;
- ☑ statements of his health condition;
- ☑ description of income and employment, and interviews with employers;
- ☑ description of previous criminal records;
- ☑ information about the victim, his opinion, attitude, whether he has forgiven.

Reports are particularly useful, for instance, in criminal cases, especially if it is being decided on the correctional institution. It is less important to receive such report in case of a less severe offence, small scale thefts as well as if the case shall be heard in a shorter time: *„if there is an agreement process in the case; when I am able to hear the case faster“.*

The main risk of practicing the SPS assessment reports on a wider scale is that the time of preparing them is quite long but courts are very loaded and not always the judge has time to require them. It is hard to implement already now as regards the measures of a correctional nature because the law sets forth that these materials shall be reviewed within 15 days but it is not real to draw up a qualitative assessment report in so short time. A solution here might be establishment of a procedure so that the police or prosecutor asks for the report already during the pretrial process in order for the SPS to manage to prepare and the judges to receive them at hearing. Amendments to the law are required providing for that the police has right to require assessment reports from the SPS.

*It is foolish and absurd that only prosecutor and court may require them. The solicitor or attorney in criminal cases might also have right to ask them. It would only be logical. (Judge)*

Another risk that may endanger more extensive use of the SPS assessment reports is the potential lack of capacity: „If an obligation is imposed to provide a report for each case, other problems might arise – the SPS will require more staff.” Yet, taking into account the SPS’s projected readiness to prepare 1800 – 2500 assessment reports every year as of 2007<sup>17</sup> it is anticipated that problems of lack of staff should not arise.

As the usual scenario of action envisages that the judge gets the main impression about the defendant from his behaviour in the courtroom „because the person standing in front of the court is trying to demonstrate himself from the good side and hide the bad things as much as possible”, the SPS assessments, along with the function of providing information, play a very important role, diminishing the role of the judge’s subjective perception in the decision making.

*Some notion is certainly got about him in the courtroom but we may not state that it is right every time because someone doesn’t know how to act in the courtroom, another sings like a nightingale there. Although it is vice versa in reality. (Judge)*

### **3.2.4. Imposing community service on minors with alcohol or drug addiction**

The State Probation Service staff and forced labour or community service employers’ consider that the most problematic group of offenders in terms of both communication and labour execution is people who are alcohol or drug addicts. The study tried to find out the judges’ opinion to what extent such considerations are taken into account in imposing a sentence or refusing community work as an inappropriate type of punishment. The judges’ opinions differed depending on their experience in this area.

A part of judges consider that imposing community service as a compulsory measure of a correctional nature, the therapeutic effect of the work shall be fully used and this punishment is chosen deliberately in order to create some real benefit for the convict.

*I have imposed it on minors who are registered for alcohol or drug abuse. In particular, if he is not studying and working anywhere; if he is employed with something it seems to him that he is needed for someone. Correctional works are given him as a chance. [...] We certainly get requests from the SPS to replace with a custodial arrest because they are evading and failing to fulfil the job but that may in a way take those alcohol or drug addicts out of that life. (Judge)*

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<sup>17</sup> Information provided by the State Probation Service: [www.probacija.lv](http://www.probacija.lv)

*Definitely! They must work! They need to be explained very seriously that in case they fail to come the court will replace the work with a custodial arrest – who wants it? (Judge)*

Outside Riga this problem is being considered less topical and the judges admit that they have not faced so severe addictions; neither do they consider that the judge should be so competent to evaluate whether the minor is simply in his cups or it is already an addiction. In most cases there is simply a statement in the case that the person is not registered with a psychiatrist or narcologist.

Yet, the majority of judges interviewed approve that juvenile cases are explored in a great detail and choosing the most appropriate punishment the judge takes into account risks and assesses whether the child would work or not.

*If he doesn't attend a school or is roving, he won't work. That should be taken into account. There is no use to take it all so formally. (Judge)*

Admitting that looking from the point of view of organizing the labour execution youth with substance abuse problems might really be a problematic group, the judges gave different interpretations in discussions on the need and possibility of compulsory treatment of addictions. One part of judges admits that they depend on possibilities provided by the law facing the problems of addictions; they feel quite powerless and propose amendments to the legal regulations that would envisage the application of treatment that is impossible at the moment.

*We may use only those punishments offered by the law. If a minor is under influence of alcohol or drugs and he has a disposition to substance abuse, the law should be supplemented with a compulsory treatment or another measure that would be connected with improving his state of health. Maybe some social correction programs that they would be obliged to attend. [...] In cases of this category we have a minimal co-operation with the SPS but if the law provided for participation in the social behaviour correction program for prevention of drug influence, then we might start with that. Afterwards we could start thinking also about medical institutions that might do it. It is a serious and complicated question that shall be solved on the state administration level because it is connected both with finances and specialists, as well as human rights, because in order to make by force a minor to undergo a compulsory treatment, many laws are to be reconciled. (Judge)*

*If he does not work, he shall be mewed up in some medical institution. What else? Serving of the sentence shall be terminated and he must get a treatment. Compulsory treatment might be established. That could be applied in addition to the sentence. The Criminal Law for adults sets forth: if a person has mental problems the sentence shall be postponed and waited until he recovers. Afterwards it is continued.*

*Alcoholics as if work, then go on booze for a week or two. Minors drink, too, some even drink for a year and on the top of all take amphetamine, too. (Judge)*

One part of judges considers that the past experience when it was possible to sentence to compulsory treatment of alcohol addiction was efficient enough and it should be continued also now. However, it is stated that there are no resources and political will for that.

*In the Soviet times there was a compulsory treatment but then there was a medical opinion that stated that it is an addiction, the person is registered with the narcologic register and he needs treatment of alcohol addiction. Then on the basis of this medical statement or opinion we imposed that compulsory treatment in the judgement, too. I don't know how that treatment was carried out. But that would costs a lot for the state. (Judge)*

As many judges are those who consider that it is already now possible to impose a duty to minors to undergo treatment of alcohol and drug addiction.

*The law provides for such possibility. The court shall ask for agreement in adults' criminal cases but it may impose such measure on minors without the minor's agreement. But it seems to me that none of judges at our court has applied it. (Judge)*

### **3.2.5. The role of minor's agreement in case of community work**

Forced labour or community service of those countries which have a longer experience of community-based sentences, including community service or forced labour, is characterized by the convicted person's conscious and active involvement and collaboration. In many European countries a widespread practice is that judges applying the forced labour and alternative types of punishment to imprisonment ask for the defendant's agreement in order to increase assuming of the responsibility of the defendant oneself and conscientious sentence execution. In Latvia such practice is not widespread neither in sentencing the forced labour nor community service for minors. Judges in general consider it unacceptable and unnecessary to debate with the defendants on the most appropriate punishment for them. Even in those cases if asked the judges are not used to trust to the defendant's promises, neither are they ready to receive a negative response: *„There are also very impudent and shameless children. I think there is no need to ask.“ (Judge)*

Some judges, however, are always asking the defendant's agreement, asking once again whether the punishment is understandable, find out whether any reasons exist that might refrain from execution of this work. Yet, such question does not mean that the judges offer minors to assume some part of decision but gain confidence in appropriateness of the punishment and that



after some time it would not be necessary to replace the sentence with another due to objective circumstances.

*Yes, I ask because it is important. There are things the minor is not talking about at the hearing but asking this question he may be remembers some circumstances and important facts that the court should be informed about in decision making process. (Judge)*

*Yes, it must be asked because children at that age are very different. If he is imposed those works, he, being ashamed of others and in fear of other's derision may stop attending school, run away from home so that no one could find him for these works. One must be very careful because there is no use imposing him work if that is against his nature and character. At that age it is psychologically hard for them. I ask in each case. I ask even mothers if they do not object because sometimes the child does not say that he is ill. (Judge)*

It is to be admitted that most often judges obtain evaluation of the appropriateness of punishment already before the hearing, asking for assessment reports from the State Probation Service, or assessing the personality, find out themselves all required additional information. Inspection of objective circumstances, assessment provided by a school, social services, municipality, State Probation Service or sometimes also parents is considered as more reliable information because judges often do not rely on the minors' ability to assess themselves adequately.

*But I find out myself whether the person is studying, working. How much time it takes, whether there are any other extracurricular activities. I find it all out to avoid that he is taken out of that environment. Minors often do not understand what it is. You read the judgement and explain but while they don't face it in reality, they are not thinking of it very much. (Judge)*

### **3.2.6. Reapplication of the forced labour or community service to minors**

As regards adult offenders, the judges emphasize that usually in cases when the person has already been sentenced once and has not served the forced labour sentence, most often some other – more appropriate or severe punishment is chosen. Situation of reimposing correctional work on minors serving a criminal sentence – forced labour or a compulsory measure – community service, is different.

First of all, taking into account the small ratio of community service and small number of hours (20-40 hours), in most cases the minors under sentencing of this work have completed those hours and almost none of the interviewed judges has experienced cases of reimposing community service.

At the same time judges admit that in case of non-performance of community service (compulsory measure of a correctional nature) the real possibilities of the court to vary or change something are quite limited and a question of more severe punishments should be still solved:

- ☑ If children are not performing the imposed community service, the court may decide on increasing the number of community service hours. It is, in its turn, an apparent contradiction because the problem of breach of sentence is not solved but passed over to the State Probation Service employees or employers.
- ☑ Inefficient and illogical is also an application of another – less severe compulsory measure such as parents' pledge.

*It is certainly easier to give under the pledge of parents because then nobody cares about it any longer but the problem is not solved by that. There are some who understand but in most cases they are giggling and laughing. That punishment is in one ear and out the other for children. (Judge)*

- ☑ Unfortunately, the recently amended law does not provide for imposing restrictions of behaviour on children anymore that would be controlled by the State Inspectorate of Minors Cases and that might be as an additional punishment for those who do not perform community service:

*The law has unfortunately deleted this type of punishment [of behaviour restriction]. I don't know what the motivation is but as of 1 January 2007 it is not working anymore. (Judge)*

- ☑ The next applicable compulsory measure is placing of a child in a correctional institution that is considered inadequately severe and inefficient punishment that may be applied only in a few cases.
- ☑ The judges propose to allow applying in such cases possibilities of a temporary custodial arrest that is unfortunately not working at the moment.

*Those punishments of deprivation of liberty that start from six months are destroying for minors. But it could be very short (up to 30) days for evading the community service. (Judge)*

In general judges agreed that from the possible compulsory measures of a correctional nature community service is the most appropriate for minors as a real and instructive punishment whose replacement or reapplication in a real practice is most often unnecessary.

From the judges' real experience in case of non-execution of the criminal sentence – forced labour it is due to the state of health, studying load or other reasons. In case the minor has evaded the forced labour the problem is in the attitude and most probably the next time the judge will not choose such punishment. Then he would be imposed another, more severe punishment. In such situations replacement of punishment is not perceived as very problematic.

*If the person is not performing these works, the SPS asks the court to replace it with, for instance, imprisonment. In this situation the court has real possibilities. The court imposes a sentence and it must be served! (Judge)*

### **3.2.7. Combining community service with participation in a social behaviour correction program of the State Probation Service**

The State Probation Service has developed social behaviour correction programs to change the offenders' behaviour with an aim to refrain them from future violations and facilitate their integration in the society. Application of these programs let change the person's behaviour, motivating him and teaching to think and react to various situations and problems in a different way. Developing the mechanism of realizing the social behaviour correction function in Latvia, experience of Canadian, Netherlandic, Danish, Irish and Swedish Probation Services effective operations was taken into consideration. At the moment a general probation program – EQUIP has been prepared and is being implemented for work with minors and youth. It is a program that using the peer assistance method helps the youth to think strategically and act in a responsible way in order to prevent committing offences<sup>18</sup>. Judges were asked to evaluate within the study their attitude towards the possibility of imposing a compulsory measure of a correctional nature – community work together with participation in the social behaviour correction program of the State Probation Service. The objective of the study within this assessment was to find out the judges' attitude towards the idea of applying behaviour correction program in general, without analysing their efficiency (and in which cases).

The majority of the interviewed judges taking into account their experience and currently available information, appreciate very much the possibility of combining community work with participation in the behaviour correction program, and state, that they would be willing to impose also behaviour correction along with community work for the minor. The main benefits would be:

- psychologist's consultations that may be very effective in teens and that would direct the child's thinking and behaviour in a positive and more appropriate for the society way;
- program managers and social workers would work with the teenager and would perhaps pay him the missing attention;
- in general these programs are positive and might give new impulses for the teenager;
- participation in a group, in a social behaviour correction program might take those children out of the usual environment who come from

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<sup>18</sup> Information provided by the State Probation Service: [www.probacija.lv](http://www.probacija.lv)

unfavourable families, thus achieving better results than only execution of community service.

The judges consider social behaviour correction programs as efficient enough and offer to apply them wider imposing as a duty to participate in the required programs for those children who receive a warning or who are given under the pledge of parents or imposed restrictions of behaviour. Besides, admitting that the majority of children who have got in the centre of the courts' attention need more serious educational measures apart from community service, some interviewed judges criticized the updated law <sup>19</sup> that withdrew the existent possibility of applying behaviour restrictions to children and imposing a duty of performing certain actions or refrain from performing certain activities.

*Personally me, I am imposing these duties in each decision. I imposed a duty to go to a psychologist, doctor or specialist. I imposed a duty on the family, Orphan's court, parish court and social worker to work with this family, to keep an eye on him. That is their work. In such way we force to achieve those positive results. (Judge)*

Around one fourth of judges who were interviewed about imposing community service, in general appreciate combining the community service or forced labour for juvenile with social behaviour programs, yet they don't feel sure at the moment that they are competent enough to assume responsibility and evaluate the usefulness of such program for each defendant. They think that detailed information of the State Probation Service is needed on the required program and potential schedule how to combine participation in the program with community service execution.

*Let the Probation Service distinguish which program to send to. It could be so that a compulsory measure of a correctional nature and in addition participation in one or two months' programs is imposed. (Judge)*

The judges would be more convinced on the necessity to combine behaviour correction programs with community service execution if they had more information about the efficiency of these programs. It is to be noted here that at least information would be necessary that it is possible to achieve the required effect - the change of the juvenile's behaviour only in a longer work with specialists therefore judges shall be convinced that a behaviour correction program for a part of juvenile delinquents would be necessary in any case. Amendments to the law are also required that would provide combining such compulsory measures of a correctional nature. Yet, if amendments to the law are being prepared they shall include precise and executable sanctions in cases some of the imposed measures is not fulfilled.

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<sup>19</sup> Saeima of the Republic of Latvia. Law "On Applying Compulsory Measures of a Correctional Nature to Children", Section 6, "Latvijas Vēstnesis", 2005 - 2007 Amended law of 01.01.2007.

*They would differ in terms of time because programs are for a longer period of time – a month and longer. While he gets involved, while the group gets organized, then he has to complete that course. If works last for 20 hours, it is possible to complete it within two weeks. Then it comes out that he will have already served community service but the program will be still left. And what if he won't attend that program? One part will be voluntarily completed but the other will be left in the air. We should think what happens then. Is it right to send him to a special educational institution for that he is not attending the program!?* (Judge)

Unlike the general positive attitude some of the interviewed judges deny a possibility of imposing social behaviour correction programs to children along with the forced labour or community service. In one case the denying attitude has appeared as a result of the past negative experience:

*Recently there was one case where a minor was imposed a conditional sentence with a trial period of one year within which he had to participate in the SPS program. First of all she had to run to the police office to register, then twice a week to run to the SPS program and at the same time to continue studying. As a result wishing to manage everything and in fear of the police, she fell behind in studies and had big problems with progress. At the beginning she attended those programs but could not keep pace because she spent an hour on her way. The forced labour and attendance of a program are two punishments or two serious measures.* (Judge)

In the other case the judge is in general sceptical about any possibility to influence and change the behaviour of juvenile delinquents: *„They are impossible to change because the family has raised them such. They will be as they are, that is proved by the court's experience.“* (Judge)

### **3.3. Practical execution of community service for minors**

Execution and organization of the community service and difficulties related to it directly influence the efficiency and use of a compulsory measure of a correctional nature – community service or criminal sentence – forced labour in juvenile delinquency cases. Apart from attitude and sentencing procedure issues described in the previous sections, mutual co-operation of the court, State Probation Service and employers is also important in order to ensure in practice an efficient achievement of the goal of the forced labour sentence. This section will cover both the possibilities of the State Probation Service and employers to ensure the community service execution according to the law that forms the grounds for recommendations on the required improvements for enhancing the community service execution.

### 3.3.1. Mutual co-operation of the court and the State Probation Service

As it was already mentioned community service is imposed to children of age of 11 to 18 whom the court or judge has passed adjudication which provides for application of the community service, and community service execution is organized by the State Probation Service (SPS). The child who has been imposed a compulsory measure of a correctional nature – community service shall together with one of parents or other guardian register with the respective State Probation Service according to his or her place of residence within seven days after the adjudication coming into force. If the child fails to come to register with the State Probation Service within the set term, its official shall find out the reason of absence. If the child fails to register with the SPS in the set period of time, he may get an extended term of community service or community service may be replaced with more severe compulsory measure of a correctional nature.

So, both these institutions – the court and State Probation Service should collaborate very closely in order to, first of all, the court received all required information and chose the most appropriate and efficient type of punishment, and, second, the minor understood what community service means, what is expected of the minor and what are terms of serving this sentence, thus in general achieving the set goals of community service.

As it was described in the previous section, all interviewed judges appreciate assessment reports prepared by the SPS as a good material on the basis of which the court is able to make the most appropriate decision.

*I ask [assessment reports] in almost all cases. In general I am satisfied because often it is so that characterizing information in the file is insufficient. It is possible to see something about his previous criminal records and studies. The SPS, however, includes in the report not only matter-of-fact information but also data on family conditions, interviews with friends. It is possible to obtain more detailed characteristics of the person. Everything is right as much as needed. I don't miss anything. Nothing is too much, either! That scheme, according to which they assess and look, is quite good. (Judge)*

*I asked information from the SPS because I did not understand from the file what has happened (a normal young man, no violations, no previous criminal record, worked, has not ever been registered). I found out a lot about him and that helped me to decide on punishment. Also about persons who have committed repeated offences or have been registered. May be it should not be done in case of a small-scale theft but I ask for reports quite often because it helps so much. Although it could be already done by the prosecutor's office. (Judge)*

In case of imposing community work apart from the description of the above mentioned past experience, life conditions and potential obstacles (such as

health problems, actual distance from the place of residence, combining work and studies) information about the parents' attitude and readiness to collaborate is being searched for: „*whether they support and may ensure that the child will attend that work because parents are responsible for him or her*“. Often judges expect particular SPS suggestions for serving the community service, like: „*If he is studying somewhere else, is he able at all to serve this sentence in the respective place of residence? May be he may do something at his school and serve that sentence – do maintenance or repair works*“.

The SPS employees prepare assessment reports on minors upon the prosecutor's office's or court's demand. Evaluating at what moment it should be asked that the State Probation Service would prepare the assessment report on the juvenile delinquent, an opinion prevails that the report shall be in the defendant's file before the court hearing. In order to ensure the most efficient use of the SPS assessment reports, the judges consider that requiring them, in particular in juvenile cases should be the task of the police office or prosecutor's office, thus ensuring as qualitative as possible preparation of reports by the time of the legal proceeding.

*The police or prosecutor should ask for such reports to be added to the file already in the very beginning when is found guilty. (Judge)*

A part of judges considers that the police should require the SPS assessment reports for all minors who come into contact with the police so that when the case is reviewed at the prosecutor's office or heard at the court, there is detailed and deep enough informative material available. The SPS employees also agree to this consideration, yet they remind that in order to fulfil perfectly and qualitatively all assigned functions including collection and analysis of all required information for drawing up each assessment report, attention shall be paid to the desired and real work load and capacity of the SPS is to be decreased.

*Usually they require preparation of these reports in a very short time, especially the police and prosecutor's office but it is not possible to get acquainted with the client within couple of days. It takes a month to get to know the client, inspect his place of residence, talk to neighbours, friends and find out from these people something about his personality. I think that then these assessment reports would be a basis for the judge to evaluate what the client's real situation is and what punishment should be imposed. (SPS employee)*

The next problem that needs the co-operation between judges and State Probation Service employees and where it is being implemented is informing about the practical action in case the community service is imposed. Agreeably to the term (forced labour or community service) the convicted teenagers understand on a general – connotative level that punishment is connected with unpaid work for public benefit. Yet, information obtained in the course of study show that minors who are for the first time imposed a compulsory measure of a correctional nature – community service, or

criminal sentence – forced labour, most often do not understand the nature of punishment and what the order of execution is how they should perform it. In the study<sup>20</sup> of 2006 on implementation of community service the interviewed minors who had got to know about the community service imposed at the courtroom or even after the court admitted that they had not received a comprehensible and exhaustive information on what this punishment means, what the duties of the convict are and how fulfilment of community service hours imposed by the court would be realized in reality.

The teenagers' problems to understand the point of punishment and what they are supposed to act further were discussed both by those respondents whose daily work is connected with raising juvenile persons who are left without parents' care, the SPS employees and even judges.

*The judges speak so that those teenagers do not understand what they are sentenced to. Afterwards we have to explain what and how it is. (Employer)*

*The key to success is explaining so that the client or convict understands what the collaboration looks like, what his duties are, what he is supposed to do, what are the consequences in case he fails to do that, and at the same time it must be followed that he really understands it. [...] Sometimes it must be repeated three, four, five times until I feel myself that he has really understood that. It happens that in the first time you tell them and: yes, alright, will start working right now, everything will be done. Questions arise already after the first break: no, did we agree so? You must make sure that he has really understood, ask him to repeat the stated how he will do that, what he will get for that. (SPS employee)*

Although the State Probation Service has prepared an informative material on community work that includes all required information for serving this sentence, including also the condition of within how many days after the court's decision coming into force one must register with the State Probation Service, many convicts fail to do that within the set term because they are not informed, have not understood or have forgotten this condition. Mostly that could be explained by that often the informative material prepared by the SPS is not available at all or as if may be found in the respective court hall or with some court employee but is not displaced in a visible or publicly accessible place, for instance in the informative stand of the court hall.

Some SPS employees approve that they usually participate in hearings and in case community service is imposed, they give informative materials to the legal guardian of the juvenile delinquent right in the courtroom. But the range of duties and work load of the State Probation Service employees do not allow them to participate in all hearings in which community service might be imposed, besides there is no reason to consider it useful.

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<sup>20</sup> FACTUM. *Study on the Target Group of the Community Service. Survey of Results.* FACTUM, October 2006, page 14.



*If community service is imposed, I give that brochure to a mother right in the courtroom after the end of the hearing, tell that they have to come to me, take a phone number in order to be able to reach them by phone. (SPS employee)*

Around one fourth of the interviewed judges understanding this problem give together with the judgement also the informative material of the SPS and explain once again what is written there. It is to be noted that so these judges in fact undertake additional duties of informing the convicts.

*Yes, I give them [informative materials prepared by the SPS] together with the judgement. I also put on a date when they are supposed to come. Afterwards I explain everything so that they understand where to go and what will be for that. The office hours are also written there. I read the judgement and then explain in more detail where to go to. Sometimes they call from the countryside because they don't know where that SPS is. Then I tell where to go to and what the consequences will be if they don't do it. And then no one says that has not known. It is not so in other courts. But then nobody can get on my back because the judgement has been signed. They must know it because nobody else will tell them that. It is no problem for me. The persons will not feel resentful to the court that he did not get explained anything there. (Judge)*

The same part – around one fourth of the interviewed was judges who stated that the SPS informative brochures or information leaflets are available for the convict and most probably the convicts themselves take them and read the necessary information after proclaiming the judgement. It should be noted that only some of the interviewed judges were not informed or interested in whether any materials on a criminal sentence - forced labour or compulsory measure of a correctional nature – community service and order of its execution are available in the court they are working at.

*I don't know whether SPS informative materials are available for the convict. That is to be asked in the Secretariat. (Judge)*

The fact that there is still a great room for improvements regarding distribution of informative materials is proved by rather large number - almost one third of the interviewed judges who pointed out that such brochures are not available at their court but if only they were, they would willingly give them just for informative purposes or against signature together with the judgement.

To increase the awareness of minors and their legal guardians about the rules of community service and their order of execution, as well as to eliminate the common excuses about lack of this information, it would be necessary to agree on a clear procedure how to issue information prepared by the State Probation Service about serving the sentence under supervision of Probation Service to each juvenile delinquent and his/her parents or guardian. It is to

be mentioned here that in a way incomplete information may be also considered in situations when the judge explains the judgement to the convict and his legal guardian in the courtroom according to the procedures specified in the law. In an atmosphere of emotional tension oral information on what and in what order the convict is supposed to do next may be perceived partly or even quite opposite – partly or fully driven out of consciousness.

*If there is such information [information prepared by the SPS] then there is no problem to give it. But the law imposes us also a duty to explain that judgement on what that punishment is. We do that but the question is how much each one remembers. (Judge)*

It follows that the information prepared by the SPS on serving the sentence should be distributed via two channels. First of all, it shall be available in the information stand of court halls. These stands shall be placed in an easy noticeable place and information displayed on them shall be lucid. Second, it is important to give informative materials on serving the sentence to the convicts together with the written court judgement. As mentioned before, at the moment such practice that all required information on conditions of serving the sentence is given against the signature of the convict's legal guardian, is used by almost one fourth of the interviewed judges, especially those who seem to have comparatively better and closer co-operation with the SPS. In general, however, an attitude of the majority of the other judges towards giving the informative material against a signature is positive and responsive.

*Yes, definitely, it would be very good [to give the informative material together with the court decision]. They [convicts] do not understand what that State Probation Service is and what they do. Others are likely to go to the police. It is necessary because there is no information. If it is just told, it is not so effective. This way they have everything in a written form including the office hours. (Judge)*

A very small number of the interviewed judges were sceptical about the need of giving additional information together with the judgement either because they considered that all required information is already mentioned in the given court judgement or that distribution of brochures or informative leaflets to their mind do not correspond to the court's function and prestige.

*It is an unnecessary paper. He is the convict; he is responsible for finding information. We have already gone a couple of miles ahead of the Europe with those our human rights. What is going on in courtrooms!? The accused has rights only. The victim has nothing. Here again – you are sentenced to the forced labour, then go, find and ask. Why we should run after anyone? If you don't understand something, come and ask. You will be told everything. The Russian will anyway say that did not understand what was written there. The SPS willingly gave us this [informative material] in order it might be given*

*to them already here [at the court]. Now these brochures are over and I am copying them myself. (Judge)*

### **3.3.2. Co-operation between the State Probation Service and employers**

According to the Regulation of the Cabinet of Ministers „The Order of Application of a Compulsory Measure of a Correctional Nature – Community Service to Children”<sup>21</sup> the State Probation Service concludes a gratuitous agreement with employers – state or municipal institutions, enterprises, agencies or non-governmental organizations on employing children in the community service. The list of responsibilities of the employing institution or organization is quite extensive (see page 12-13 of Section 1 of this study) and apart from assigning certain tasks, ensuring work conditions and equipment and care for observation of the labour protection regulations it includes also drawing up and regular review of a precise work schedule, supervision of a child, regular communication with the SPS and accounting and registration of hours worked.

As set forth in the order adopted by the Cabinet of Ministers, an initiative of finding a community service employer and co-operation with it mainly (in around 99% cases) comes from the State Probation Service.

*It is so that we find the employer ourselves and explain circumstances under which we will employ, that they will be supposed to get used, that we will on a regular basis go to control, call, ask whether that particular [person] is at work or not. And, if he is satisfied with that, we sign an agreement with an employer. The agreement is more or less standardized and on our side it is signed by the Head. Theoretically we are ready to make new agreements, too. Up to now we have not met such who would not totally agree. (SPS employee)*

Unlike organizing the forced labour for adult offenders whose places of work are easier to find, at the moment the majority of employers are rather not interested in assuming liability and fulfilling the specific requirements as well as undertaking supervision that is necessary in cases of employing children.

*Community work requires bigger control because that child has to be watched all the time, he may not be left alone that comes out of both labour safety and internal regulations, and hours are registered every day that is signed by the employer because someone shall really stand by all the time. Control in the forced labour is smaller, one may simply come in the evening and see whether he has been there and has completed the work. (SPS employee)*

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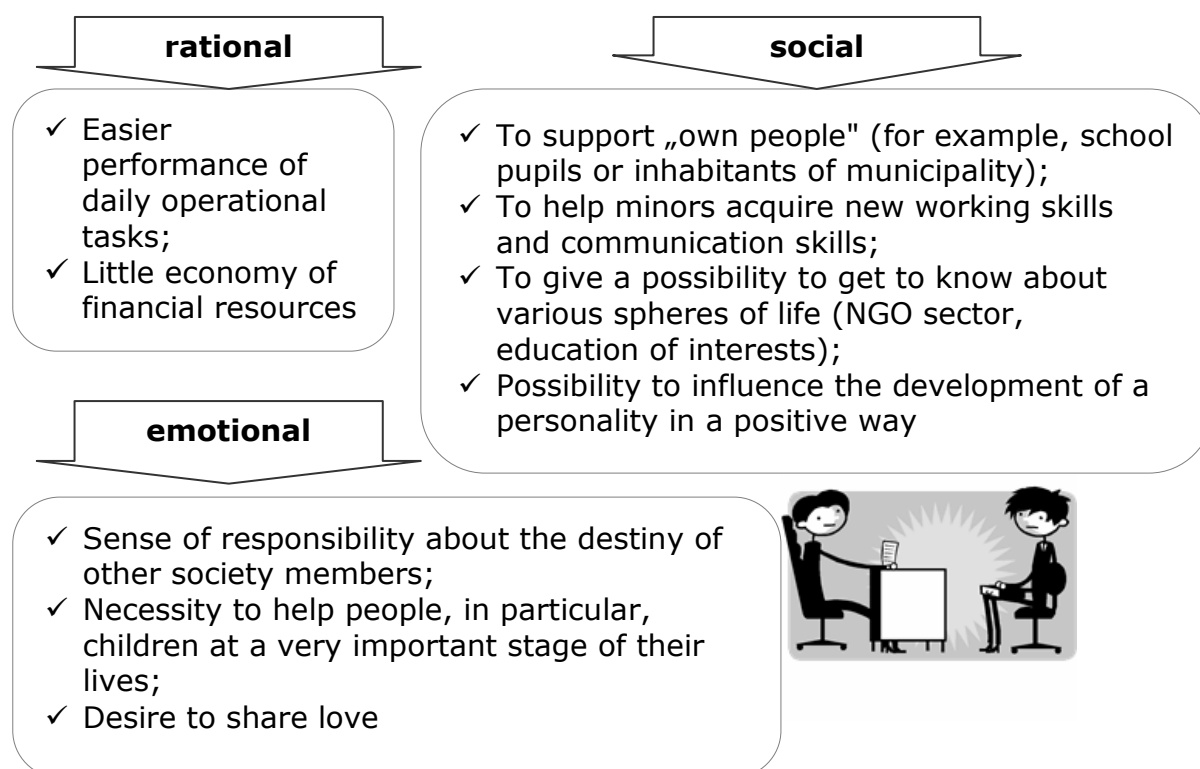
<sup>21</sup> Cabinet of Ministers of the Republic of Latvia. *Regulation No 502 of the Cabinet of Ministers „The Order of Application of a Compulsory Measure of a Correctional Nature – Community Service to Children”*. Riga, 12 July 2005, „Latvijas Vēstnesis” 111 (3269).

Therefore there is a need for a special activity and initiative of the SPS as well as often a particular knowledge of circumstances and intuition of employees in order to involve employers in the juvenile community service execution. In this case, as SPS employees admit, it is in general quite time consuming and rather hard duty.

Keeping in mind that minors are a special group, provision with the community service execution places also requires a special attention. The employer shall have an encouraging attitude towards the minor and at the same time it must be taken into consideration that they may get a negative reaction and unwillingness to work. Figure 6 shows that three levels of needs may be distinguished for the readiness to co-operate with the State Probation Service and motivation to assume the responsibilities of the employer: first of all, rational or objective considerations (for instance, material gains); second, social responsibility (both by helping minors to learn socially more acceptable models of life, and by meeting the employer's need to "look" good in the local society's perception); and third, as deeper and more solid - the level of emotional needs.

As material benefits provided by community service are rather insignificant in order to achieve goals of community service as efficient as possible and employ minors more successfully, it is important to find such employers who highly value social and emotional motivation. That way employers are really ready to participate, support and help instead of perceiving employing of minors as annoying duty and burden.

**Figure 6. Employers' motivation to participate in employing minors**



At the moment the main employers who participate in organizing community service are educational institutions, children and youth centres, NGO centres and municipal organizations.

*Well, minors - where to send them, to a borstal?. It is an absurd! If they have such possibility here at home – as concerns those minors, we really wanted to help them if there is such possibility. (Employer)*

The current employers' experience regarding employing minors is very different and the employers may be relatively divided into three groups:

- Educational institutions where the convict is studying (the easiest way from the perspective of organization);
- libraries, different youth interest centres, NGO, preschool institutions where employees are motivated to help the minors (socially responsible employers);
- municipal institutions which are responsible for providing the minors with work (the most passive group of employers).

One of the most popular ways practiced is employing the minor in the educational institution where the convict is studying. From organizational point of view it is much easier to do because like in libraries it is easier to ensure „someone standing by“ or continuous supervision and find appropriate works, besides according to the law the place of work execution shall be close to the place of residence. Yet, in these cases two problems arise:

1) not all heads of educational institutions are ready to assume additional liabilities – that is perceived as an extra burden:

*The SPS came with the court judgement to the director and he imposed that duty on me. I did not agree at all. I don't like to impose such things on children. Last year there were forced labour performers, too, but this was the first time of my co-operation with the SPS. (Employer)*

*No, in fact we were placed before a fact that those are our students and we are responsible for them. Definitely that it is our child and I am responsible for what happens to him and what he is doing. (Employer)*

2) attitude of other students towards the community service performer is often negative that causes problems to the probation client and reduces his motivation to serve this sentence:

*It is very hard for him because other children are teasing him when he works. It causes quite big inner resentment. Children are in fact very cruel. I am chasing them there but it is so that they are around and many of them are mocking. Otherwise he would certainly work more and come regularly. From that point of view it is hard for him. (Employer)*

Yet, there are such educational institutions that, of their free will, have agreed to participate in organizing community service and help their own students. The need for employing their own students and experience gained has made those employers become more open to new offers.

*Those were our students therefore I agreed quickly. I would most probably think now about employing other minors. If people from outside were offered, it would have been much harder but it was the simpler that those were our own students. (Employer)*

There are employers who are more socially responsible and oriented to help minors understand what is really important in life. Therefore in order for the community work to be successful, a particular employer who is employing the minor is very important. Such institutions as preschool institutions, youth interest centres, non-governmental institutions get involved in co-operation with the SPS mainly for social motives. They take into account peculiarities of minors as an age group that extra efforts and involvement will be required in order to ensure successful serving of the sentence. In addition to work assigned to the minor there is an active communication with him. As employers admit, often teenager who had never felt and received a support from other people, family, feeling it become more open and there is a greater chance that in future they will not get into a similar situation. Broadening of the convict's view and acquisition of a new experience of life is mentioned as one of important considerations that motivate the employers to co-operate with the SPS. Exactly co-operation with employers whose motivation is more focused on social responsibility and desire to help creates better results. That should be taken into account, choosing the place of serving the sentence for minors.

*I don't see them as offenders. My aim is not to punish them even more. I am a social teacher and when I am short of time I give these children something interesting to read that is appropriate for his age, and later we discuss what he has got from it. It is important for me that people useful for society would grow up and develop in my administrative territory. We give them a chance to change in their place of residence an attitude towards things as it is a punishment, though. We help to integrate in more favourable society. (Employer)*

Employers representing different municipal institutions that are able to offer mainly physical work are more sceptical group of employers. They perceive the minor rather as a burden. Perhaps it is due to the past experience that has not been very successful, neither their own position that one may not expect nothing good of the minor facilitates a successful co-operation.

*On one hand he has been sent here to serve the sentence, and on the other hand, it is not a circus here to get him interested, reeducate here, etc. That is not our objective. It depends on the person himself whether he will commit offences some other time. (Employer)*

*The young people are quite immature and are light-minded [behave] towards such things so that the employer is not able to deal with it alone. (Employer)*

As already stated above, it is hard for SPS employees to motivate the employers to employ under-aged persons. Employers of municipal institutions point out several problems why they are unwilling to take minors.

- minors may work only two hours a day (in case of community service);
- more complicate to find appropriate work;
- greater employment restrictions and special care for labour safety that makes the employer be cautious employing the minors, in particular in cases of violation of law that automatically makes to think about the problem of ensuring discipline and observation of some regulations;

*I would rather refuse to take [a minor]. That is because various prohibitions existing regarding employment and labour safety. They are not allowed to lift heavy things; there are different restrictions for youth under 16-18. [...] I would not want minors because they have not worked yet and cannot do the basic elementary works. We don't have time to teach them. (Employer)*

- there is a need for a supervisor for the entire working time.

*They are also to be watched and supervised all the time and told what to do - now you have to move this and that. It is much more difficult with them. (Employer)*

*I would not want to work with minors at all. Because someone shall stand by all the time. But who will watch him? Again, it asks for a municipal officer to be there. How can I pay my employee for that overtime? (Employer)*

It is to be noted that attitude of municipal enterprises towards minors to a great extent is connected with their experience – if it has been positive, the attitude towards minors is not negative, either.

*The youngster worked very well, he was also precise. There were no problems. (Employer)*

A great role in achieving a better result with regard to minors plays exactly relationship of the employer and teenager. If they develop on the basis of mutual understanding, there is a greater chance for achieving a positive result.

*We felt with those youngsters that they lack exactly those conversations. [...] My gardener told that she had such a feeling that she was talking consistently for those four hours. She had raised her*

*own children, faced those problems and is open to discussions with youth. May be all that influences them. (Employer)*

*We are trying to talk to them sincerely – now you see how it is that you don't listen to your mother, wander around, where it all gets to – is that worth it? We also have social workers who talk to them. (Employer)*

Employers of minors are satisfied with their job done but economic benefit may not be called substantial.

*I haven't calculated but if 20 hours a week are to be worked it sums up a bit. A minimum, at least. They have really helped us. Otherwise the gardener should work the whole month to do all that work. And still, if two work together, it goes faster than she'd do alone. Those extra hands give a lot even though in the beginning they cannot do so well. (Employer)*

*No material benefit, only order. It is easier only for a cleaner or janitor. Her work is being lightened. It is normal because their wages are ridiculously low. They have deserved that someone helps to collect leaves and take away something else. It is absolutely deservedly. (Employer)*

*Our material benefit was that we did not need a street sweeper or repairman for separate works. We were also happy when that person changed, became more open. (Employer)*

The youth interest centres, NGO as well as preschool educational institutions are most appropriate places where the minor is not only employed but also gains a positive impulse for the development of a personality.

*Here he could see the real consequences when someone drives on a person and he becomes a disabled. I think that it was a good lesson for him because afterwards he told that he has understood a lot and that the attitude shall be changed. (Employer)*

It is particularly important for youth coming from socially unfavourable environment to see and find out that there are many other options and interests in life.

*May be we don't have so much work to offer but if we can find some, we do so. Children who came were like „better fed than taught". He does not know at all that there is such education of interests; that interest groups exist. They as if work here but at the same time they see a little another world. May be he is not in that group yet, may be he has not found friends yet but he sees - there is something going on. It is very important. (Employer)*



*There was fire-wood prepared for winter, they piled it up. They worked with such enthusiasm. Perhaps they had never done such work because they were from Riga. I took them here, took to work, and gave over to the teachers during work. In the beginning I was anxious how it will be but we developed very good relationship; afterwards I even had to help them fix fishing-rods. They waited so much when I would arrive and take them to work. (Employer)*

The recent experience of co-operation shows that only such employers are to be involved in employing minors who are open and ready for collaboration themselves taking into account the need for extra care in work with children. On this score it is not expected that the situation might change and also in future the SPS choosing the potential employers for children and minors will set the employer's own interest and desire to do it as the main criterion.

*We agreed [with SPS] that it would be good if mainly youth and teenagers came to us. It is easier to communicate with them and also to help them. (Employer)*

*Problems as usually with 13-14 years old boys – unserious attitude towards life as such. That is their age feature. Problems? It happened that they did not inform that there are some changes and they are not able to come. When weather conditions were worse and out street sweeper had come and waited for them but they did not show up. I think that at that age they have not developed such sense of responsibility that it is work that they must do and that they are responsible for that. [...] We are satisfied with boys' work at large. When they worked, they really did it with all their heart. Sometimes even we have to tell them that they need to take a break and then continue work again. I liked that they had definite days when those four hours [of the forced labour] should be worked. Then they were pleading for a chance to work some overtime so that they had fewer days to work. I think that it is positive that they want to work their time. (Employer)*

Another aspect of a successful co-operation between SPS and employers shall be noted that it is important for employers to receive SPS's evaluation of their contribution.

*It was so nice that the Head of the SPS had remembered and sent a greeting card to all schools that co-operate with him. (Employer)*

### **3.3.3. Practices of community service execution**

Talking about the frequency of application of community service judges stated that this compulsory measure of a correctional nature is being imposed quite rarely, stating as reasons that the court faces very few juvenile delinquency cases and most often they have to work already with the criminal

cases and apply a criminal sentence – forced labour. The majority of the interviewed State Probation Service employees admit that their experience in community service execution in comparison to cases of the forced labour is quite small or even no experience at all.

*The practice is that this community service is applied in a very few cases, we even don't have such instances. (SPS employee)*

As the main difference between the criminal sentence – forced labour and compulsory measure of a correctional nature – community service the interviewed SPS employees mention the number of imposed hours (20-40 hours in comparison to the forced labour whose execution time is 40-280 hours) as well as the maximum possible number of hours to be worked a day (two hours for community service, four to eight hours for the forced labour). Practices of execution in both cases are quite similar but as already mentioned, describing the co-operation with employers, special regulations for work with minors shall be observed.

*Work is similar but in comparison to the forced labour it is different for children that they work two hours instead of four and he may not be employed after 20:00 o'clock in the evening. (SPS employee)*

Paragraph 3 of Section 11 of the Law "On Applying Compulsory Measures of a Correctional Nature to Children" provides for that the Cabinet of Ministers sets forth the order of applying the compulsory measure of a correctional nature - community service to children. In compliance with Regulation No 502 of the Cabinet of Ministers „The Order of Application of a Compulsory Measure of a Correctional Nature – Community Service to Children" of 12 July 2005<sup>22</sup> the execution of the community service starts with the child's registration together with one of parents or other guardian with the respective State Probation Service according to his or her place of residence. As the SPS employees admit, often this Section of the Law causes the very first problems in the sentence execution because the child's legal guardians may not be found or are not available.

*If there is a grandmother, father or mother who comes, then there is no problem. But what to do if a 17 years old boy has been left and the mother has gone abroad? We had one case, he came and even didn't remember who is his legal guardian, some aunt, living in his area, he knew neither her name, nor surname. [...] We are trying to find the legal guardian. (SPS employee)*

*There was one boy whose parents: father deceased, mother gone abroad ten years ago, he has been left with the granny's second husband who is as if watching him, yet the boy was very negative and*

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<sup>22</sup> Cabinet of Ministers of the Republic of Latvia. *Regulation No 502 of the Cabinet of Ministers „The Order of Application of a Compulsory Measure of a Correctional Nature – Community Service to Children"*. Riga, 12 July 2005, „Latvijas Vēstnesis" 111 (3269).

*we were forced to change those 50 hours to a custodial arrest. (SPS employee)*

If the child fails to come to register with the State Probation Service within the set term, its official shall find out the reason of absence. If it is found out that the child is evading the registration, the SPS official sends a registered letter with warning to the child's place of residence that states the last date of registration and informs that in case the child fails to register with the SPS, it will ask the court to extend the term of community service or replace the community service with more severe compulsory measure of a correctional nature. Study on the target group of the community service<sup>23</sup> showed that a large part of community service performers had not perceived that information and as one respondent admitted, she had not even got an idea after the court which institution she was supposed to register with. Only after receiving the SPS's warning letter and teachers' reminder she had got to know where to go to register. It shows that it would be advisable to implement the above stated recommendation – to care more for distribution and availability of informative brochures at court halls as soon as possible.

*„Yes, they told that we shall register but we didn't know where to do that. We were not given any leaflet, nothing! It was the court's fault, in fact. The mother even did not know – where. We had no detailed information. They sent a letter that penalty fee would be imposed because of that we have not registered. And I was told the same at school. They called to school that I shall register. (Community service performer)“.*<sup>24</sup>

The further procedure of community service execution provides for that the SPS official shall explain and give the terms of the community service execution to the child and his guardian, besides the guardian signs for being informed about the terms of community service.

*We wait for the court judgement, invite the child to come with together with the legal guardian because all actions, drawing up a work schedule, signing of agreement is done in the presence of the legal guardian and he also signs as a testimony that the child will start working. (SPS employee)*

Regulations of community service execution provide for that the State Probation Service shall find an employer for the child taking into account age, place of residence, education and skills. The child is given a work order to the respective employer and the child's guardian is also introduced with this work order that he is asked to approve by signature. For the first time the child comes to the employer together with an official form the State Probation Service but further he or she goes alone or together with a guardian. The former practice shows that most often work offered to minors is related to

<sup>23</sup> FACTUM. *Study on the Target Group of the Community Service. Survey of Results.* FACTUM, October 2006, page 14.

<sup>24</sup> The same, page 14-15.

cleaning the territory or premises of the respective institution (such as school, kindergarten, and library).

*In fall it was raking of leaves. He had to take away the old flowers with a cart, sweep roads, dig flower beds, clean and sweep the sheds of the kindergarten, pick up waste papers. In spring he had to clean pits around the big school because leaves are blown in there. In winter he shovelled snow from pathways. In rainy days he swept corridors in the school. Before Christmas he helped to take away twigs and clean the lawn. After the storm he took away the broken branches of trees. He helped to carry books in the library. (Employer)*

*We are employing the minors in particular places, for instance, we have a very good co-operation with ... graveyards. There are no heavy trees or suchlike. You give a rake to a child, he rakes off the territory and everything looks fine. [...] To get a nice result there is no difference whether a thirty years old man or a child does it. (SPS employee)*

As until today application of community service is not very widespread, some SPS employees point out that in those cases they are usually trying to find an interesting work for a child. That way both a positive motivation to complete the imposed work hours is created for the teenager as well as the goal of community service – to facilitate development of value orientation adequate to general public interest, is achieved.

*In fact it is very important to find an interesting job for minors so that they worked that punishment at least. For the time being I have no particular problems with minors because I somehow manage to motivate them. He comes to me and I ask at once – what are your interests? He sees that I have a good mind towards him and he does likewise. One guy told that he would like to do repair works; that it would interest him and he would like to learn to putty, that he would like it. I thought, ok, if the mother agrees. We all three went, I showed what to do and there were no problems, the boy is working perfectly. It is important to have a favourable attitude towards him, motivate him, and make him understand that he shall work! We definitely also say what is following in case he would not work. (SPS employee)*

*I have cases when parents come with them and I tell what the work is, there is also work with computer, preparing information. But those parents have frightened them that they will be made to work with a broom. Then they are sent to a NGO centre, they work and now are volunteers. Perhaps it was useful if the children see now that they may do something for the public benefit. (SPS employee)*

*It should be so that it is not simply going and working, not perceiving it as punishment but as a possibility to learn some new job because there are guys who are involved in repair works so they acquire some new skills and knowledge, both practical and theoretical. (SPS employee)*

Speaking about the practical execution of community service it is to be noted that a significant role in the official execution order is played by the agreement of all parties on the further work schedule. In compliance with the order of the Cabinet of Ministers of applying a compulsory measure of a correctional nature - community service to children the employer is responsible before starting each work for drawing up and submitting to the Service a work schedule which the SPS employee introduces the child's legal guardians to. In the further course of work execution the employer follows fulfilment of the schedule and informs on all changes the responsible person of the SPS and also as often seen in practice - the parents or guardians if such are available.

*There was SPS, stepparents and me in the Director's room. We draw up a schedule and told when he is supposed to start working. In the beginning he was diligent. He found me after the classes and I gave him work to be done. There were cases when he told parents that he had not met me although I am at school every day, and therefore could not work today. So he lied a bit at home, too. If he did not show up several days in turn, I contacted parents and we called to the SPS. (Employer)*

Information obtained in the study approves that in general community service is performed in quite close conformity to the order specified by the Cabinet of Ministers. It provides for that during execution of community service the SPS official meets with the child, discusses the process of community service execution and the problems related to it, if such have arisen. The SPS controls how the child performs community service communicating regularly with an employer to receive information on execution of community service, and arriving to the employer to check how the child is executing community service in practice.

*Taking into account that they may work only two hours a day, we are watching them, the employer is present all the time. And really - they are controlled more than adults. (SPS employee)*

*That teenager needs all the time someone to stand by and tell - do this and that because as soon as he completes one, he won't come and ask for another. (SPS employee)*

*There is one such youngster in the very beginning of my career - he did not object but said all the time that he would come to work; he did not and sat in an internet cafe instead. I tried to understand what kind of person he is, talked to his mum, too. Sometimes he worked half an hour, sometimes an hour, finally he had one hour and 15 minutes left and he said - well, write off it for me! I said - no! And I made him go and work that hour and 15 minutes. Now we are greeting each other. Nothing must be written off, by no means. (SPS employee)*

As seen from above, qualitative execution of community service requires significant time and work contribution both from SPS employees and from

employers that often exceeds possible material benefit from employing a youngster.

*The employer sometimes feels as a convict like we do because sometimes it seems that not our client but we have been sentenced because we have to wet-nurse with him and the employer wants to see the result of work, too; the employer does not see that result of work for a long time and he expresses his dissatisfaction to us, that in fact implies an idea – put him behind the bars. In fact, it is possible to understand the employer. [...] We are nursing as long as possible, trying to convince the employer and working with the client to make him complete that work. (SPS employee)*

It happens sometimes in the real life that exactly the intensified attention and even double control (following both children and employer) that the SPS employee is supposed to carry out is a serious test of the further co-operation of the Probation Service and employer.

*Now collaboration is improving but in the beginning it was so that the employer was dissatisfied: „Why are you coming here! Are you controlling me? I have worked with children eighteen years!” He had been a teacher some time and we are going and controlling his work now. „You don’t trust me!” - he did not like at all that we were coming. I tried to explain each time that I was not going to control him, that I trust him but I have to control my convicts how they perform their work. (SPS employee)*

The Regulations provide for that the employer shall be responsible for that apart from creating work conditions pursuant to the labour protection requirements; the child shall be introduced with the labour protection regulations. However the study on the real practices of community service execution shows that the feature characteristic to Latvian labour market in general that the employers do not pay too big attention to the requirements of the Labour Protection Law<sup>25</sup> is observed also in employing minors. The study of community service performers of 2006 showed that only some of the interviewed children were introduced to the labour safety regulations<sup>26</sup> besides it was in most cases done by the State Probation Service employees and only in separate cases employers themselves had done that. The participants of the respective study – the interviewed children admitted, though, that there was no need to get introduced with the labour protection regulations because their work was not dangerous and they knew the general safety measures.

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<sup>25</sup> AS Inspecta Latvia & RSU DVVI. *Work Conditions and Risks*. LM, Riga, 2007, page 40 - 41.

<sup>26</sup> FACTUM. *Study on the Target Group of the Community Service. Survey of Results*. FACTUM, October 2006, page 12.

*There is no special introduction to the labour safety regulations because it seems to me there are no such works which require a safety instruction. Those are not hard works but auxiliary works. (Employer)*

*What labour safety while shovelling snow? None! (Employer)*

It shall be noted that those employers which don't feel that employing juvenile delinquents would be their interest or mission but rather take it as unpleasant burden pointed out that an increased responsibility, different employment restrictions and specific labour protection regulations refrain them from participating in employing these children.

The Law sets that in case the child conscientiously complies with the terms of the imposed compulsory measure and does not commit new violations of law, the SPS may submit to the court or administrative commission a motivated written proposal on reduction of the term of applying the compulsory measure of a correctional nature. The results of the study show that such positive motivation to try to perform the work well is not widespread among minors, possibly because the children are not informed about such possibility but also may be because the maximum number of community service hours is rather insignificant anyway. Yet, there was a mention of a case when a child had tried by his activity to achieve the reduction of community service hours.

*I have met a child who works very diligently because he has heard or been told at the court that in case he carries out community service well, the Probation Service may ask the court to reduce the number of hours. And now, every time I visit that school it is seen from conversations with him and employers', who is really controlling every day what and how he is doing, feedback that he is working hard, so apparently he has an objective he is willing to reach. (SPS employee)*

Unfortunately an opposite situation is more common – the child does not fulfil duties imposed on him or deliberately evades the community service execution. In such case according to the law the SPS employee may submit a proposal about extension of community service duration or its replacement with the only strongest compulsory measure - committal in social correction institution. In the cases of reduction or extension of work hours, as well as in more severe cases – minor's committal in social correction institution, the decision is within the competence of the judge. In practice it means that the SPS employees and sometimes also employers shall use special skills and make a great effort to achieve that a minor gets done community service imposed because all parties consider that committal in a social behaviour correction institution is inadequately severe penalty applicable only in cases of utmost crisis.

*They are not performing community service because no one can force them to do that. They think of different reasons as teenagers are used to - then they have a stomachache, then ailing hair, then it's raining and then again nothing to wear. (Employer)*

*I don't consider that minors are to be sent to a borstal at once either because it does not change anything; that is only isolation from the society for some time. But thinking of the majority of them is not getting more positive, they get at the bar again and again. Work would be very good if it worked but we have problems with legislation. We have a nice legislation on children protection and rights but there is hardly any mention of child's obligations. They have rights but obligations are only for adults, parents and other children institutions. It gives them such as sense of impunity. They live with that – I won't have anything for that! As far as I have talked to the SPS about minors who get under their supervision, they are not able to make them complete those work hours. He is not going and that's it! What can you do to him? Motivate? How long can you motivate? (Employer)*

The milder compulsory measures of a correctional nature such as warning or giving under pledge of parents or guardians often only develop a sense of impunity in a child and don't make to assume responsibility for the offence. The practice proves that in that way only development of their criminal career is facilitated.

*That guy who is now serving the sentence in the Central Prison was imposed community service [obviously – forced labour] – 200 hours. My deputy was taking him to work but he went away from there. Then he stole a tape-recorder from those employees because they did not believe that such child from an orphanage may steal. [...] It is to be followed – if that person is not performing community service, he shall be imposed another type of punishment. If he is a minor, without completed education, he has to go to school and after classes fulfil community service. But the responsibility shall by no means be imposed to that institution he is put in. Because they [minors] have very big rights but they never observe their duties or do it only in a few cases. Certainly, it is not referred to all children but to those hard to educate with antisocial behaviour. [] Their duty is to study but if he does not want to go to school or goes there but does not attend classes, or attends classes and vandalize a class there, he may not be imposed any punishment for that, nothing. (Employer)*

Comparing to cases when the juvenile delinquents evade their criminal sentence – forced labour, sanctions for non-fulfilment of imposed duties are simpler and clearer here - a certain number of days to be spend under custodial arrest.

*It would be interesting to find out how is that guy who had 30 hours of the forced labour left to be worked but he disappeared. In fact, according to those hours he was supposed to sit in a prison for two weeks. If that hour is so actually taken it turns out that number of hours worked is smaller and we are wondering why they fail to complete it because imprisonment is definitely more unpleasant than working the remaining hours. (SPS employee)*



*We may quickly run to the court to get him imprisoned and the court is left only two options but we are still looking what his family conditions and other situation are. [...] The court will reimpose the same work hours and set the term by which he is supposed to work that forced labour. If there has been an absolute ignorance from the client there have been cases they get imprisoned. And those cases when they are put behind the bars are exactly young people because in reality they had no excuse. One was under-aged yet and I even don't know how it all ended. He was 17 and was sentenced to arrest but he evaded the forced labour elementary. He did not show up and that's it! [...] I think that the problem was simply laziness because he simply did not go to school either, was wandering about. I don't even know what happened with him because he had started performance of those works very well; it may be assumed that situation at home was tough because the mother had a new family. He was the eldest child, the step-father did not like him and all problems in that family were solved with the help of alcohol. [...] He was given a chance once, twice; the third time the court gave a possibility to perform that forced labour, the fourth time he was imposed a custodial arrest and that's all, we don't know, where he is. (SPS employee)*

As the study shows, the SPS employees, however, are trying to reach in any case execution of the forced labour or community service or serving a sentence in the community instead of imprisonment.

*I had one guy. He was not very sure that he really had to work, that he may really be imprisoned. I worked with him, wrote a warning, he changed schools and works, then I sent another warning; finally I did not write to the court. May be it is not the right action but all those conditions in the family – they were left alone with a sister, the father lived somewhere else, the mother – in Ireland. Get me right, I can't write to a court! Let them say what they want; our superiors are very strict about it. But I worked with him while he finished works but very precisely; he made roadways in the city centre, with big breaks but still finished. (SPS employee)*

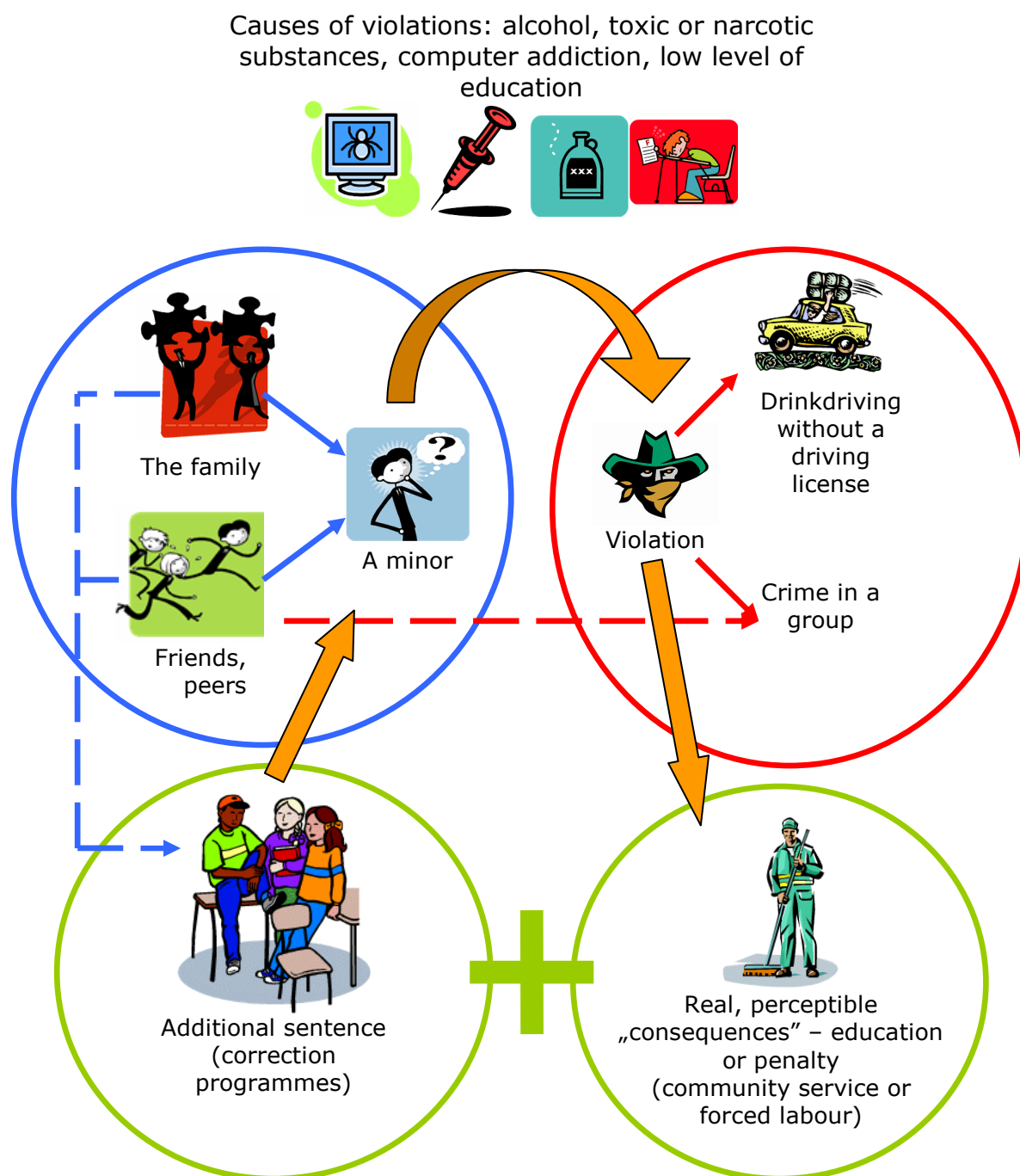
*It is not so that I am a very good aunt now. I'm about reporting of one case to the court because I let him go to Ireland for three months and he wrote that he would return and come to us but he is back already for a month and had not showed up. I call him – [he] does not pick up the phone, I called his mother and now I am angry, will write to a court, he calls me – he will be on 18 May; for that he is working in Riga, he has not received a warning because he has not been at home. What shall I do then – write to the court or wait until 18 May? Certainly, I will wait until 18 May. May be it is not right but I will do so. (SPS employee)*

### **3.4. Efficiency of the compulsory measure of a correctional nature – community service**

Efficiency of the compulsory measure of a correctional nature within this study is assessed taking into account (1) whether the imposed compulsory measure of a correctional nature gives the expected result – refrains the minor from recidivism of violations or criminal offences, and (2) whether all required legal instruments are available in the order of juvenile penal execution in order to implement successfully the idea of community-based sentences.

In general, evaluating the entire program of measures for behaviour correction of juvenile delinquents, the factors influencing commitment of offence shall be taken into consideration: the environment and closer surrounding people of the minor, former life experience as a result the violation has been committed. In order to improve this situation, not only a real punishment (within limits – community-based and correctional) but also additional work is required to correct the minor's social behaviour. If a violation of the law is a result of that the teenager has grown up in a socially unfavourable environment where it is characteristic to settle disagreements by means of violence and to suppress negative emotions by help of drugs, then, in fact, this child has not learned models of socially acceptable behaviour and he has to learn them from scratch. A compulsory measure of a correctional nature – community service or a criminal sentence – forced labour is, on one hand, a chance to see how other people live and work, so the teenager has an opportunity to observe alternative types of behaviour, but, on the other hand, it requires specialists' help and guidance in order for him to learn them. Therefore in general it is necessary to combine social behaviour correction programs with community-based sentences. These coherences are showed schematically in Figure 7.

**Figure 7. Juvenile delinquent’s environment and resources required for behaviour correction**



Also the results of this study repeat the experience of community service performers<sup>27</sup> and State Probation Service employees<sup>28</sup> described in the study of 2006, which shows that community service as a compulsory measure of a correctional nature is effective to the children who have committed an offence

<sup>27</sup> FACTUM. *Study on the Target Group of the Community Service. Survey of Results.* FACTUM, October 2006, page 5.

<sup>28</sup> FACTUM. *Study on Forced Labour and Community Service: Experts’ interviews with SPS employees. Survey of Results.* FACTUM, November 2006, page 23.

rather incidentally and who are ready to learn from their mistakes. SPS employees have noticed that community service serves as a lesson mainly for the youngsters who are not disposed to illegal actions and who have violated the law by accident or by their imprudence. For these young people a relation with the police and court institutions itself is a powerful measure that can refrain from further commitment of offences.

*If a minor's family is favourable and parents are normal, then usually it is easy to motivate him or her to work these hours. Then it is possible to attain some pressure from the family. Respectively, if the family is unfavourable then it is more difficult, then the fight is both with a client and his parents; as much you motivate him, as much he goes home and his motivation disappears. For example, parents drink and even discourage him: „Where will you go and what will you do? Why do you need something to do?“ Various cases occur, but these are the difficult ones.. (SPS employee)*

*Successful cases are with the ones who have favourable family conditions. But there are also children without parents and they live in boarding-school. There are problems with them, they don't care at all. I have good contact but he doesn't obey me, an employer, a director, or a social teacher. [...] It takes a lot of efforts to fulfil the task. (SPS employee)*

*In some way it makes a child to think over a lot – whether it is worthwhile to do or not to do the same next time. Because if children commit violations they usually do that in a group, they will never do that alone. There is a group where one says, „Let's do this!“, and everybody does. In his turn, perhaps, he is not there at all and is doing nothing. And, respectively, he is not aware of what he has violated, at what conditions and what harm he has done. And when performing the forced labour and meeting a prosecutor together with parents, he starts realizing his mistakes. Besides, the period of community service makes one to think whether it was worth it, considering that my time is taken away now during which I could go to a park or the sea; I have to work. It's also the practical work, of course, when we rake leaves, weed or something similar, but actually at that time he is prohibited from fun with others. (SPS employee)*

For children from social exclusion risk groups, whose everyday life can be characterized by serious family problems, lack of parents' love or even no love at all, efficiency of community service would be found in change of previous conditions, creation of positive social experience and good relations. It happens in cases if children are involved, for example, in work of non-governmental organisations where after fulfilment of interesting and responsible duties they frequently continue active work as volunteers. Such experience is not very widespread, however, the cases so far show that the educating and socializing effect of community service is positive and enduring enough in such cases.

*About children – they come to work to an NGO centre, I still manage it voluntarily, and I give them various tasks to do – at computer, to prepare an information sheet, to organize seminars. Together with our employees they arrange chairs, put cups, copy materials, and, of course, they remain for the seminar in order to clean it up; they make contacts, sit at one table with the city mayor and deputies. They see something else – they see what activities in society are, later on they sign up as volunteers. (SPS employee)*

SPS employees and also employers working daily with children note that the work content is one of the most important factors forming motivation for work and educational effect. In order to increase the educating and correcting effect of community service and the forced labour it is necessary to find an occupation which complies with his or her interests, psycho-physiological constitution (for example, to direct one's energy or strength to the execution of work) that would give satisfaction from working together with other people to whom the relevant work is their daily job.

*Perhaps, they could be sent to fruit farms for picking berries or apples, so they would not work alone. It would be more interesting for them there. So they do not have to work alone. Thus willingness could arise to work there also in future. Perhaps, they could be involved in harvesting. Just to raise interest. School tidying work is considered donkey work. They could also be involved in some fish-works but probably there is again this transport problem. And that would be much more interesting for them to work together with adults or peers. (SPS employee)*

Evaluating efficiency of community service and the forced labour to minors, controversial point is a sense of shame serving the sentence, in particular, if it happens in public. It was already mentioned that exactly shame may be one of the factors why a minor could try to evade the execution of the imposed work because the sense of humiliation is too strong before peers who can laugh at the work performer. If a part of specialists considers that such attitude of the peers degrades the positive effect of community service and the forced labour, then others, completely opposite, consider that a sense of shame will refrain a minor from committing a repeated criminal offence.

*Only the closest fellow's friends know that it has happened to him and he has to perform community service. I think that adults are not so affected by the sense of shame but if a child in his own school where he studies has at least to dust something, then it may happen that classmates see it and miscall him afterwards (because contemporary youth will miscall and point the finger – you are such and such). I think that he will never do that again, I think that it is very effective. (SPS employee)*

It is to be noted here that in psychology it is often mentioned that people who have previously been victims of violence may become violent persons

themselves. Also it should be taken into account that regret for an offence and a desire to change are created by a real punishment in combination with respectful attitude towards the punished offender, showing that he or she has a possibility to correct his or her deed by doing something good and valuable. So, there is a risk if a minor serving the sentence of community service or the forced labour has faced humiliation, not a strict but friendly work assigner and a teacher, then in the future conscious or unconscious desire may appear to compensate or „to retaliate“ humiliation suffered. In the previous sections, considering the practice of organizing community service it was stressed that the most positive effect has been achieved exactly in the cases when adults involved in work organisation and execution have treated a child with respect and interest.

Comparing community service and the forced labour it was mentioned that the maximal number of hours for community service is comparatively small. Therefore it is worth considering an option to make amendments to the law, so making it possible to impose on minors more hours for community service execution.

*It is allowed to determine work up to forty hours to a child, it seems even too little. (SPS employee)*

Already in the previous studies it was concluded: „Therefore it is recommended to apply community service in combination with a social behaviour correction programme which forms juvenile behaviour organization in compliance with the values and perceptions accepted by society, and by the help of which it would possible better integrate these youngsters in society. Adjustment of such programme to the respective type of punishment would be particularly necessary to youngsters from the risk families. Besides a social behaviour correction programme which is not currently applied as a compulsory extra measure to community service, community service does not include a full educational aspect and is considered as having low efficiency“.<sup>29</sup> Also in this study the data show that for lasting and effective behaviour correction it is insufficient only with execution of community service or the forced labour in order to attain the desirable result.

*It is more difficult with adolescents, they take more effort. [...] They do not take things seriously. I don't care a damn – I'll come after half a year, or maybe later – yes, yes, I will come but I'll do nothing at all. But it also depends on the families. These are usually from unfavourable families and they are not appreciated in the families; they think that no one needs them anyway. And then you have to work as a psychologist. [...] It is necessary to meet them more often and talk more every time. (SPS employee)*

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<sup>29</sup> FACTUM. *Study on the Target Group of the Community Service. Survey of Results.* FACTUM, October 2006, page 5.

As mentioned before if community service is not being executed it may be substituted with a more severe compulsory measure of a correctional nature, i.e. he or she may be sent to a social correction institution. Although sending a young person to a social correction institution is the utmost penal measure – when all the other penal measures have proved to be inefficient, its efficiency and positive impact on the personality, however, is questioned. The youngster under age of 18 may be sent to a social correction institution not less than for 6 months (that corresponds to a half of school year). It means that the youngster, for example, for 10 non-completed work hours get to a social correction institution, the least for 6 months. Similarly, taking into account the status of the social correction institution and its negative reputation (violence among wards), it is very unlikely that it will help to attain the desired result - behaviour correction.

Factors decreasing efficiency of a social correction institution are the following:

- ☑ Closed and comparatively „criminal" environment - a minor may become a victim of a physical and psychological violence and humiliation, as a result of which he may consider violence as acceptable and even the only way of communication for achieving objectives. The more socially unfavourable is the environment, the greater possibility that a personality will commit a repeated offence.
- ☑ Several judges are concerned about the fact that while staying in a social correction institution, the convicted person may gain new contacts with similar youngsters from the social risk group and may commit more dangerous crimes in a group in the future.
- ☑ Judges are not convinced that youngsters while staying in a social correction institution are busy enough in their free time. Youth's idleness and isolation from society, to judges' mind, cause dangerous consequences to the youth's psyche and, in general, could substantially decrease youngsters' successful return into the society.
- ☑ Duration of a stay in a social correction institution is too long to make a positive impact on the development of a personality. If duration of stay exceeds, for example, one month, the youngster will probably adapt to new conditions and stay in a correction institution will become more a daily routine and less as a compulsory measure of a correctional nature: *"Remand up to one month gives benefits. After that the person gets used to the environment and learns a great deal of nonsense"*.

Although committal in a social correction institution is one of compulsory measures of a correctional nature, these institutions do not conform neither to the set task – to educate (duration of stay in a social correction institution is too long), nor to correction of youth's behaviour. Whereas, evading the forced labour a custodial arrest is applied which judges consider low-effective because imprisonment shall preferably be no longer than one month because the convict must not forget what he is giving up by being imprisoned. Staying in a prison more than a month, the convict starts adapting to the new

environment and instead of perceiving it a punishment it becomes a daily routine of life.

So, in order to increase the understanding of minors that community service and the forced labour are real punishments and that their consequences are, respectively, committal in a behaviour correction institution or an arrest, it is necessary to establish a wider gradation of penal severity by applying custodial arrests of some days or restriction of freedom of action (for example, house arrest with a duty to attend a school), if community service or forced labour is not executed initially. It should be also noted that for a youngster from a socially unfavourable family a custodial arrest could be an „understandable“ punishment because compulsory measures could be „more familiar“ to him than positive and motivating measures. Therefore it would be necessary to combine the execution of community service and forced labour, and also short restriction of freedom of action with a social behaviour correction programme. Taking into account that a youngster acquires socially unfavourable behaviour models primarily in the family, then in order to increase the durability of the programme’s effect not only a juvenile delinquent should be involved in there but also his closest relatives – parents or legal guardians.