

5. CZECHOSLOVAKIA

Area in sq. miles	.	.	54,900
Population	.	.	13,600,000
Capital	.	.	Prague
Population of Capital	.	.	677,000

Czechoslovakia has three penal codes partly in operation, according to the previous nationality of its provinces.

There is a probation law 17th October 1919, viz. conditional sentence and conditional release (i.e. probation and parole) for minors and adults. Age of criminal responsibility under ten years *nil*, ten to eighteen years partial. (Former Hungarian territory under twelve years *nil*, twelve to eighteen years partial.)

There are no full-time, paid probation officers, but very many social workers. No professional association.

There are no juvenile courts, but separate hearings for minors usually under the president judge, who deals with offenders, cruelty to children, etc. There are counsel for the defence of children and children's clinics. (Former Hungarian territory has juvenile courts with a specialised judge.)

There are associations for the care of juveniles with special offices for child offenders in the large towns.

The information concerning this new and flourishing Republic consists of three parts. Part I reached me from the Czechoslovakian Ministry of Justice through the ordinary diplomatic channels, and is dated 2nd September 1925. Part II is from the Ministry of Social Work. Czechoslovakia has the distinction of a separate Ministry of Social Service and, at the suggestion of President Masaryk, this Ministry has replied also in English to a number of the questions. Part III was supplied by my friend Judge Vojtěch Hellriegel, who has obliged me with much interesting information from his wide knowledge of Czechoslovakian law.

PART I (MINISTRY OF JUSTICE)

1. Yes, we have a probation law, viz.—

2. The law of 17th October 1919, No. 562 of the legal code, concerning conditional sentencing and conditional release; on former Hungarian territory the Criminal Amendment Act XXVI/1908, relating to juvenile offenders, is partly operative.

3. The validity of Law No. 562/1919 is not restricted to offenders of any definite age.

In accordance with Law XXVI/1908 there is a number of special enactments relating to juveniles (twelve to eighteen years):

Par. 21. Release on probation is carried out when the court does not pronounce sentence, but, having suitably admonished the juvenile offender, leaves him conditionally at liberty for a probationary period of one year under supervision involving strict regulations. Release on probation cannot be applied if the juvenile offender has already been convicted to imprisonment exceeding one month.

Par. 22. In the case of release on probation the court entrusts the supervision to the legal representatives of the juvenile offender, or, should such a course be desirable for his moral welfare, to a State-managed children's asylum or other institute established for the purpose; to some association for the protection of children; or to a suitable person. Should it be necessary, the court will take steps for the youthful offender to obtain suitable employment.

The person to whom the supervision is entrusted will keep continual watch upon the conduct of the juvenile offender and will immediately notify the court as soon as the probationary period has been spent unexceptionably.

Par. 24. The court orders reformatory training when the environment of the youthful offender is detrimental to his character; when he is in danger of being neglected; or when for any other reason reformatory training appears to be necessary for his mental or moral development.

The court orders reformatory training for an indefinite period, but it cannot continue beyond the end of the youthful offender's twenty-first year.

Reformatory training is carried out in State institutions and other establishments recognised by the Minister of Justice as being suitable for the purpose.

The method of reformatory training and detailed regulations applying to it are drawn up by the Minister of Justice in collaboration with the Minister of the Interior.

Par. 25. A youthful offender who has undergone reformatory training can be released by the Minister of Justice after consultation with the supervising authority for a probationary period of two years if he has spent at least one year in an institution (Par. 24, Section 3) and if he appears to be completely reformed.

If he passes the probationary period in an unexceptionable manner, his discharge becomes final and definite. In the opposite case the Minister of Justice can order the person who has been released on probation to be sent back to the institution if he has not yet completed his twenty-first year.

Protective supervision is carried out in accordance with Par. 17 of Law No. 562/19 by the district court within the jurisdiction of which the offender is permanently located. This process is carried out by a confidential "protective supervisor," who complies with the direction given by the court.

The Act of 11th November 1919, No. 598, contains the following more detailed regulations :

Par. 34. The court which carries out the protective supervision must provide itself with the documents in the case in order to become acquainted with the circumstances under which the offence was committed, and with the culprit's previous record.

It is the duty of the court to admonish the offender if he has not behaved as he should have done, and to notify the court or commission deciding about the matter the reason why the carrying out of the deferred punishment or its remainder is to be ordered.

Par. 35. The person appointed as protective supervisor must be one enjoying public confidence and of unblemished reputation ; chosen from among the offender's relatives, if there is no objection to this.

If the protective supervisor does not perform his duties, the court will appoint some other person in his place.

Should there be adequate reasons, the offender can ask the court to modify the measures in use by the protective supervisor.

Par. 36. At regular intervals fixed by the court the

protective supervisor must report to the latter, as far as possible orally, about the offender in his charge, and he must notify any fault which he perceives. Oral reports will be concisely recorded by the court.

In the case of juvenile offenders the court sometimes entrusts the protective supervision to youthful welfare societies, such as the "Department for Juvenile Welfare at the Prague Provincial Court."

5. Protective supervisors are not paid.

6. No special enquiry is made into the mental and physical abilities of offenders who are conditionally sentenced, but in the case of juvenile offenders a detailed enquiry is made on the basis of questionnaires.

8. Mental, physical, etc., examinations of offenders take place in the course of the penal proceedings before the main part of the trial.

PART II (MINISTRY OF SOCIAL WORK)

In the Republic of Czechoslovakia there are no institutions or clinics especially established for the mental or physical examination of offenders.

The mental examination of offenders takes place only when the result of the criminal proceedings gives rise to a suspicion that the offender is not of sound mind, in which case the judgment of two medical experts, usually psychiatrists, will be required as to the mental condition of the offender.

Otherwise there are education authorities and the institutions for the care of juveniles who pass their judgment on the mental and physical conditions of the offenders at the request of the court.

The mental and physical examination of offenders after the trial—as is, for instance, customary in Belgium—is unknown in the Republic of Czechoslovakia. Therefore questions 7-10 and 12 cannot be answered.

Though the legislature of the Republic of Czechoslovakia has indeed accepted the institution of probation officers from the English and American laws, nevertheless the establishing of this institution is only in the beginning in our country.

As far as young people are concerned, the legislature of the Republic of Czechoslovakia took its own course on the

basis of the special development of the social care for juveniles.

The social care for juveniles is in its foundation voluntary, and is managed by semi-official associations. These associations are active in the smallest court districts, and are called "The District Care for Juveniles."

In case these district associations of care for juveniles should not suffice, e.g., for the institutional care for juveniles, the higher authorities have to interfere with the management, and are termed "The Country Care for Juveniles."

In these district and country associations are represented the courts of justice, administrative offices, the clergy, the teachers, etc. There are also established special sections and in the larger towns special offices for the care of juvenile offenders. These sections and offices are in steady relation with the court by the aid of their trustees.

These trustees have no specialised education, but their activity is prompted by the secretaries of the Juvenile Care Associations.

The secretaries, of course, get a special education at the High School of Social Care in Prague, where one of the subjects taught is criminal law concerning young people.

The graduated pupils of this school are connected with the Association of the former pupils.

This is the first step taken for the organisation of those factors.

Besides all this, there are congresses held from time to time to give the members the opportunity of exchanging their ideas and views.

The Country Juvenile Care Association publish every month a periodical called "The Juvenile Care."

I hope that by this information questions 11, 13 and 14 of the questionnaire have been answered to full satisfaction.

SUPPLEMENTARY INFORMATION

The kindness of President Masaryk, the Grand Old Man of Central Europe, afforded me an "Open Sesame" to the judicial and welfare institutions in Prague. I spent a whole day in the court of law with an efficient interpreter of the Czech language, whilst the President Judge Hellriegel and his two fellow-judges with the aid of a jury tried a young offender under twenty years of age.

The judges wore black gowns and black hats similar to those of the Parisian judges (see p. 83). Before them was a crucifix with a candle on each side. An usher lit the candles. Everyone in the

crowded court stood. The witness came forward and in reply to the judge promised to tell the truth and in token thereof shook hands with him. The candles were extinguished, the court sat and the witness gave his evidence. Every time a new witness appeared these preliminaries were repeated. To the left of the judge was seated the jury (which included women) and facing them was the prisoner sitting on a plain bench (there was no "dock"!). Behind the defendant sat counsel and officials of institutions concerned in giving information. There was a homely dignity about it all. "Did you hear what the witness said?" the judge asked the defendant. "What have you to say to that? It is very important." Or to a too impulsive jurymen, "No! No! You mustn't ask a question of that sort." Throughout the attitude was paternal.

In the judge's description of the Revolution he says that on the 27th October 1918, after a day's work in the court administering the law under the Austrian regime, he retired to rest, slept soundly through a night of bloodless revolution and awoke to find the newly born Czechoslovakian Republic in being and to administer its new law, No. 11, on the 28th October 1918. In the portions of the Republic formerly under Austrian and Hungarian rule the two codes of law were continued respectively, and these are gradually being superseded by the new laws of the Czech Republic.

It is interesting to know that a new juvenile court law has been drafted for the Republic.

PART III (JUDGE VOJTĚCH HELLRIEGEL)

Judge Hellriegel, President in the Prague law courts, very kindly drew out a digest of the laws dealing with the protection of children. From this I reproduce a few of the more striking and informative features.

A. Regulations by Law and Orders in Council of Penal Matters with regard to Young Persons

Penal law of 27th May 1852 (revised and enlarged by the law of 3rd September 1903), valid only for Bohemia, Moravia and Silesia.

Par. 1. Crime presupposes evil intent.

Par. 2. Therefore an act or omission is not considered a crime when the transgressor has not yet completed his fourteenth year.

Par. 46a. If the offender at the time of committing the crime has not yet reached the age of twenty, if he is feeble-minded, or if his education has been greatly neglected, these

facts are taken into consideration as extenuating circumstances.

Par. 237. Punishable acts committed by children up to the completed age of ten years are left to parental discipline; but from the age of eleven, i.e. after the tenth birthday has been passed, to the age of fourteen, acts which for the immaturity of the offender are not considered crimes shall be considered as transgressions (*přestupky*).

Par. 269. Immature persons may become guilty in two ways: (a) through punishable offences which in their nature are crimes, but which, having been committed by immature persons, are considered only as transgressions and are punished as such; (b) through such punishable offences which in their nature are only misdemeanours (*přečiny*) or transgressions (*přestupky*).

Par. 270. Acts of the first kind, 269 (a), committed by an immature person, shall be punished by confinement in a separate place according to the nature of the circumstances from one to six months.

Par. 272. This penalty shall be accompanied (together with work of which such offender is capable) by education by the "spiritual overseer" or by the chaplain.

Par. 273. Misdemeanours or transgressions are in general left to parental discipline, but where this is not administered, and in special cases, they are punished and ordered by the authority for public safety.

B. *Law of 24th May 1885, Par. 89; and of 10th May 1873, Par. 108 Imperial Code; and of 24th May 1885, Par. 90, valid only for Bohemia, Moravia and Silesia.*

If the court finds a person guilty of the transgression of vagabondage or of begging, it may decide that after his sentence shall have been served, such person may be committed to a compulsory workhouse and be placed under police supervision.

For persons not over eighteen years of age there are maintained (in place of the compulsory workhouse) special reformatory institutions (schools) for youthful offenders, which care for their moral and religious education, and where each one of the committed is taught some special trade. They are to be kept in such institutions as long as their case requires, but not after they have reached the age of

twenty. Such offenders may also be placed in private reformatories.

C. *The Law for the Protection of the Republic, of 19th March 1923, Par. 53, valid for the whole State.*

Probation for persons over eighteen is not available when the crime committed falls in the scope of this law, or if in any way the crime, transgression, or misdemeanour requires that for reasons of public safety the punishment should be imposed.

D. *The Law for the Protection of the Republic is valid for the entire State, 19th March 1923.*

This severe law, which deals with the murder or attempted murder of those holding high positions in the State, was passed after the murder of Minister Rašin by a youth under twenty years of age.

E. *Provisions of the Penal Laws for the Protection of Young Persons*

Penal Law of 27th May 1852, valid for Bohemia, Moravia and Silesia

Par. 376. It is a transgression to neglect the obligatory supervision of children under care.

Par. 377. Children must not be put to sleep by administering to them poppy-juice.

Par. 379. Provides for the punishment of wet-nurses infected with contagious diseases (other than venereal diseases).

Par. 414-421. The exceeding of parental discipline is punishable, viz. abuse of children by parents, guardians, teachers, masters of apprentices, masters of servants.

F. *Law for the Eradication of Venereal Diseases of 11th July 1922, valid for the whole Republic.*

Par. 14. Houses of ill-fame are abolished. The erection and upkeep of such is forbidden and is punishable as "enticing for immoral purposes."

Par. 15. Provides for the establishment of houses of correction for prostitutes,

Par. 16. Creates institutions for the correction of fallen young people under eighteen years of age of both sexes. The supervision is in the hands of the officers of public safety.

Par. 19. Provides for the punishment of a woman who, although she is suffering from venereal disease, accepts a position of wet-nurse to a child not infected with the disease ; likewise for the punishment of him who hires as wet-nurse for a child afflicted with the disease a woman not affected by the disease.

Par. 20. It is a punishable offence to persuade to co-habitation a girl of less than sixteen years of age.

G. Special Regulations (not laws) with regard to Penal Procedure against Youthful Persons in Bohemia, Moravia and Silesia.

Youthful persons are divided into the three following groups :

1. Immature—from ten to fourteen years of age.
2. Not of age—from fourteen to sixteen years of age.
3. Not of age—from sixteen to eighteen years of age.

In judging the offence the following facts must be taken into account : the age of the offender, retarded physical and mental evolution, motives for the act as explained by the youth of the offender, his repentance and the adequacy of parental discipline.

The old order that young persons should be recommended for pardon is changed to the use of the devices of probation.

The legal defenders of the youthful accused shall be notified by the court of the charges against their clients. They have the right to interfere for their defendants at the main trial, and if not present, they are to be notified as to the result. The court of guardians must also be notified of the outcome of the trial.

At the final trial shall be present counsel for the accused or members of Child-welfare organisations concerned in the case.

Most of the courts, especially in the large cities, have special " authorities for the care of the youth," the workers of which take part in the main trials and investigate, previous to the trial, the home and personal circumstances of the

accused and the environment in which he lives. After the verdict they see to the placing of the child and his education, acting in general as probation officers for the persons on probation.

The examination of the accused should be done tactfully and only in exceptional cases should resort be made to confinement pending investigation and trial.

The court of guardians according to the outcome of the trial shall make further arrangements for the protection of the erring child. It shall consider whether or not the parent or guardian of the child should be deprived of parental or guardian authority respectively.

Youthful offenders receiving heavier sentences shall serve their terms in special prisons for young persons, or at least in separate sections set aside for them in ordinary prisons. The court or the prison at the dismissal of the young prisoner shall inform the proper court of guardians.

These young prisoners must receive proper religious, school and moral instruction. The children's judge shall, before passing sentence, obtain information regarding the behaviour and reputation of the accused and his environment from the school, from the local police authorities, from the Church and gendarme authorities and from the State police authorities.

In Prague there is a special department of social welfare in connection with the police.

The penalty of imprisonment not exceeding three months which the inmates of reformatories should serve for punishable acts committed before their confinement in the reformatories or during their confinement may be served in the reformatories themselves. The Ministry shall specify the reformatory in which the sentence must be served.

These reformatories may also be used for carrying out the penalty of imprisonment of children who are not inmates, provided such children have their homes at, or near, the place where such reformatory exists. The reformatories are country institutions. (Country = Bohemia, Moravia, Silesia.)

The Assembly Court has a special senate for dealing with matters touching juveniles, or it may have a special children's judge.

At the district courts the jurisdiction over juveniles is in the hands of a guardian judge, who is usually, and should

always be, an older and specially experienced judge (as a rule he is the President of the district court).

In the capital cities of each of the countries there are independent district courts for transgressions, and the matter of dealing with the juveniles is in the hands of (usually) the President of the court (i.e. the oldest and most experienced judge).

H. *Provisions of the Law with Regard to Juveniles in Slovakia and Sub-Carpathian Russia, in which countries the Old Hungarian Penal Law still holds good.*

The provisions of the penal law (amended in 1907, Par. XXXVI).

Par. 15. No person who, at the time of committing a crime or misdemeanour, has not yet passed the twelfth year of his age, can be punished by a court of law ; and the authorities before whom such a person, i.e. the child, has been brought, must transfer him for punishment either to the parents, or to the school authorities who punish the child by means of reproof or by confinement after school hours. If the child is morally endangered by its environment, the Guardian authorities are notified or the child is sent to the State Children's Home.

Par. 16. Any person who at the time of committing a crime or misdemeanour has passed his twelfth year of age but has not yet completed his eighteenth birthday, is considered "juvenile" (lit. youthful). Such person may not be legally punished if he is not sufficiently developed mentally and morally. In this instance the case is also left to parental or school discipline, or the offender may be sent to a reformatory.

Par. 17. If, however, the juvenile is sufficiently mentally and morally developed, the following dispositions may be made by the court :

1. reproof ;
2. he may be set free on probation ;
3. reform education ;
4. he may be put in prison or in a State prison.

Fines may not be imposed nor may the guilty person be punished by loss of political rights. An act which otherwise would be considered a crime is considered a misdemeanour when committed by a juvenile.

1. Reproof is given in an impressive manner at a public proceeding and is accompanied by the threat of a more severe penalty should the act be repeated. If the offender fails to appear on the occasion when the reproof is to be administered, or if he does not receive the reproof with due respect, the court makes a new decision.

2. In setting the culprit free on probation he is put on probation for the period of one year. This may not be done if the juvenile had been similarly punished previously by being put on probation for a period of more than one month.

Supervision of juveniles is entrusted by the court according to need either to the child's legal guardian, or to such other as the court may direct.

If the condemned during this period of probation behaves faultlessly, the penal proceedings shall be stopped. In the reverse case the offender shall be condemned to "reform education" or to go to a prison or to a State prison.

3. Reform education may be given for an indefinite period of time, but not to continue after the child has passed his twentieth year of age. Reform educational bodies are either special State or other institutions. If the child has been in such an institution at least one year, he may be released on probation (parole) for two years if he seems to have reformed within the year.

4. The court passes the sentence of imprisonment in case the act is one the penalty for which is death or imprisonment. The shortest term of imprisonment is fifteen days; the longest (if the offender has at the time he committed the act passed his fifteenth birthday) is ten years, provided the act is punishable by death or gaol. In other cases the longest term is five years. The shortest term of imprisonment in the State prison is one day and the longest term is two years.

A person so condemned may after serving his sentence be subjected to reform education.

On having completed two-thirds of his term the condemned may be released conditionally under proper supervision.

If the juvenile is guilty only of a misdemeanour, he shall be punished by the administrative authorities, and that either by parental or school punishment, or reproof, release on probation, reform education (as above), or locking up (in place of imprisonment) for a period not to exceed two months.

K. *Penal Administration. Juvenile Courts.*

(Article from the Law VII of 1913).

Penal jurisdiction over juvenile offenders is vested in particular juvenile courts set up in connection with the Assembly Court. The Minister of Justice may set up juvenile courts also in connection with certain district courts.

The children's judge passes the sentence, except in the following instances :

1. If the juvenile committed the act and has finished his fifteenth year ;

2. If in addition to the act which falls under the jurisdiction of the juvenile court, the offender is also charged with a punishable act committed after he has completed his eighteenth year ;

3. Or if he is charged with an act which is punishable by death or imprisonment after having completed the fifteenth year of his age.

The Senate has jurisdiction in all such cases (1, 2 and 3).

The juvenile offender is never brought before a jury court. The prosecution in misdemeanour offences is done by the administrative authorities such as the police court.

In the jurisdiction of the children's judge come also acts (misdemeanours) committed by the parents, guardians, trustees, and superintendents against the children entrusted to them in allowing children under fifteen years of age to indulge in vagabondage or in sending them to beg.

L. *The Law of 17th October 1919, Par. 562, regarding Probation and Parole. Valid for the Whole Republic, and includes all Persons regardless of Age.*

The court may postpone the execution of a fine or imprisonment penalty if the latter is not longer than one year, if it has reason to believe that the offender will lead a lawful life and therefore the carrying out of the penalty need not take place.

If the guilty party has conducted himself properly during postponement, he is considered not to have been sentenced.

Probation is out of the question if the offender has been sentenced previously for a crime for a period of over three months or for an act committed from base and immoral motives.

The probation period begins with the day when the sentence is passed permitting postponement of its execution, and is one to three years if the penalty is a fine or imprisonment (up to six months' imprisonment); and two to five years if the penalty is more severe.

The court may place the probationer under supervision and under various restrictions as to residence and behaviour and as a rule it shall also order him to do his utmost to repair the damage he has done by his act.

The court shall order the execution of the sentence if it should subsequently learn that probation should not have been granted, or that the offender during his period of probation has taken to immoderate drinking, gambling, idling or immoral living, or if the probationer refuses to give satisfactory reparation without giving a sufficient reason for so doing, and further, if he has during this period committed a crime or a more serious transgression or misdemeanour.

If the offender whose sentence is at least one year's imprisonment has completed at least two-thirds of his term; or one who is sentenced to life imprisonment has completed at least fifteen years of it, "parole" may be granted if he gives cause to believe that he will lead a good life.

The period of probation ("parole") equals the time of the sentence yet to be served, but may not be shorter than two years, and in the case of a life-sentence ten years.

The released prisoner may be placed under supervision during the period of probation.

The supervision for both probation and parole is in the hands of the district court in whose territory the offender has his permanent home. The court exercises this control through a special officer—a special "confidence man" or "protective supervisor."

This "confidence man" should always be a person of faultless reputation and one who is entirely trusted by the public. If there is no special reason against it, he may be chosen from amongst the relatives of the condemned.

NOTES

- i. Offences are divided as follows:
 - (a) Transgressions (*přestupky*).
 - (b) More serious transgressions (*přečiny*).
 - (c) Crimes (*zločiny*).

2. Probation officers seem to be designated :

(a) *Důvěrník* = Confidence man, confidential friend. In factories, etc., the confidence man is appointed by the men to act as intermediary between employer and workmen. He seems to be something of a welfare supervisor in the factory, and when called upon may serve as a probation officer.

(b) *Poručník* is a term used for "tutor" (guardian) or supervising tutor (guardian) for those under twenty-one years.

(c) *Opatrovník* is a trustee or guardian for those over twenty-one years.

3. The following table gives the number of minors dealt with under the conditional sentence during the last years for which statistics are available.

Year.		Ages 10-14 years.	Ages 14-20 years.		
			<i>přestupky.</i>	<i>přečiny.</i>	<i>zločiny.</i>
1921	Boys . . .	831	9,587	154	3,771
	Girls . . .	133	2,778	28	1,113
	Totals . . .	964	12,365	182	4,884
1922	Boys . . .	818	11,549	69	1,566
	Girls . . .	186	2,891	21	372
	Totals . . .	1,004	14,440	90	1,938

Total of minors (1922) = 17,472

Total of minors and adults (1922) = 83,371

4. František Minstr LL.D., Prague University, has contributed the following notes on the competency of Czechoslovakian courts.

The Republic consists of the following provinces :

- Bohemia.
- Silesia and Moravia.
- Slovakia.
- Sub-Carpathian Ruthenia.

The Republic is divided into court districts, corresponding roughly with English petty sessional divisions. In each court district there is a *district court* over which one judge presides. He is competent in criminal matters to deal with minor transgressions (*přestupky*).

The court districts are combined so as to form larger areas consisting of several districts. These areas are called regional districts over which a *regional court* has jurisdiction. A *senat* (assembly of three judges) presides. They are competent to deal with more serious transgressions (*přečiny*) and with crimes (*zločiny*) for which the punishment is less than five years' imprisonment. In addition there is the—

Regional jury court, which meets in the regional court and has jurisdiction over crimes (*zločiny*) for which the punishment is five years' imprisonment and over, also over "political" crimes.

Adjudication is performed by a *senat* (assembly of three judges) together with the jury.

All the regional courts are subordinate to a *land court*. The regional courts of Bohemia are subordinate to the land court at Prague; those of Moravia and Silesia to the land court at Brno; whilst those of Slovakia and Sub-Carpathian Ruthenia are subordinate to the land court at Bratislava. The land courts act as administrative and supervising courts, and as courts of appeal.

The highest court in the Republic is the Supreme Court at Brno, which acts as a court of appeal only.

(N.B.—There are slight deviations from, and exceptions to, the general scheme indicated above.)