

22. POLAND

Area in sq. miles.	.	.	150,000
Population.	.	.	27,000,000
Capital	.	.	Warsaw
Population of Capital	.	.	1,000,000

Poland has a probation law, 7th February 1919, for minors only, ten to seventeen years. Criminal responsibility for minors under ten years nil, ten to seventeen years partial.

Probation officers are not trained and are paid by the State. There are also volunteers. No professional association.

The juvenile court law is dated 7th February 1919 and deals with offenders, morally abandoned children, etc. There are psychiatric clinics.

The new law will provide for child-welfare associations for every court district and a central council for their administration.

The Minister of Justice, through his departmental director at Warsaw, has kindly furnished the following information in English, under date 26th May 1925.

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1. There is a probation law for Poland.
 2. It is (1) the decree of the Chief of State, 7th February 1919, concerning the establishment of courts for juveniles ("Dziennik Praw"—"Journal of Laws"—n. 14, pos. 171).
(2) The order of the Minister of Justice, 26th July 1919, concerning the organisation of juvenile courts ("Dziennik Praw"—"Journal of Laws"—n. 63, pos. 378).
 3. It is applicable to minors from ten years of age to seventeen years, and not to adults.
 4. Such offenders are placed on probation in their families under a probation officer.
 5. Probation officers are not trained for their work.
 6. Their salaries are paid by the State.
 7. The mental and physical clinics used for the examinations are the Universal Mental Clinics for cases of mental debility of offenders.
 8. These examinations take place during the trial.
 9. No scheme of intelligence tests is used.
 10. Offenders may be sent to the Universal Mental Clinics for observation.
 11. There is no special educational course for training probation officers.
 12. Only the court can refer offenders for medical and mental examinations.
 13. There is no association of probation officers; should one be formed, it would be a private association without any special rights and obligations.

SUPPLEMENTARY INFORMATION

The following is a very brief digest of an article, 31st October 1923, in the "B.I.P.E." by Professor Alex Mogilnicki, the best-known Polish authority on child welfare.

Prior to the Great War the various parts of Poland were subject to Russian, German, or Austrian Government respectively. The greater part was under Russian rule, and proposals for the establishment of juvenile courts were refused because Russian judges spoke no Polish and would not appoint Poles to the position. In German parts of Poland children's magistrates did exist, but they were Germans and the language difficulty, though less marked, was still an obstacle. In Austrian Poland the magistrates were Poles, but the law was not suited to juvenile cases, and there was an absence of child-welfare institutions. After 11th November 1918 tribunals were set up in Warszawa, Lodz and Lublin by a decree of 7th February 1919, and in the following June a Commission of Codification for the Republic of Poland was appointed to unify the law. Two reports emerged, viz.—

(a) The first based on the Belgian law, involving the total irresponsibility of minors up to eighteen years of age and the elimination of the question of "discernment," in minors under that age, exclusion of penal repressive measures (see Belgium, p. 28). The Bolshevik invasion intervening postponed consideration until November 1920, when a new report was considered, i.e.—

(b) The second based on the French law, involving the total irresponsibility up to thirteen years of age, partial irresponsibility from thirteen years up to eighteen years of age, the latter being dependent upon the question of "discernment." If the offender is adjudicated to have acted *sans discernement*, then measures of training are to be adopted, but in the other case he must undergo reformatory treatment.

The latter scheme (b) commended itself to the section of the Commission of Codification charged with dealing with work amongst juveniles, but it was decided to call in French, Belgian and other experts. When framing their scheme, the Penal Section of the Commission were greatly influenced by the suggestions of M. Maus, general director of the Belgian Ministry of Justice, and Judge Wets, children's magistrate (Brussels).

The draft scheme divided minors into two categories :

- I. (a) minors up to thirteen who have committed any offence of the nature of a misdemeanour ;
- (b) minors from thirteen to seventeen who have committed an offence of the nature of a misdemeanour, but without discernment ;
- (c) minors up to seventeen addicted to mendicity, vagrancy, or who give themselves up to prostitution ;
- (d) minors up to seventeen whose unsatisfactory conduct has compelled their parents to seek the assistance of the court under *correction paternelle*.

In the case of all such minors, the court may have recourse only to measures calculated to lead to their amendment. The magistrate may admonish such a minor, restore him to his parents, entrust him

to the care of another family, to a child-caring agency or any similar body, or send him to a public or private educational establishment accredited for that purpose by the State.

II. The second category includes minors from thirteen to seventeen years of age who have committed an offence of the nature of a misdemeanour, but have acted with discernment.

In such cases the magistrate may have recourse to corrective measures, viz. committal to a correctional institution for a period of not less than six months nor more than ten years.

The organisation of juvenile courts is to be, according to the draft scheme, on similar lines to those in Belgium. One magistrate alone is to sit. This magistrate is to be chosen for a term of three years by the tribunal of the first instance from amongst its members. Three judges of the court of appeal will sit on appeal (second instance). The appeal and recourse to the supreme court (Court of Cassation) are only allowed in cases specially specified.

In order to carry out the work of juvenile amendment and correction, the draft scheme provides for the forming of child- and youth-care associations in every town where a court of the first instance may sit. These societies are to have a central committee, composed of delegates of the said societies and of persons elected by co-optation. The central council is to have a standing managing committee composed of five members. The central council is to enjoy, as well as each of the child- and youth-care societies, all the rights conferred by a corporate status; it is to have its own funds, which it is to distribute amongst the child- and youth-care societies. The main work of the council is to encourage the establishing of child- and youth-care societies, to see to their organisation, to co-ordinate the efforts of the various societies and to act as an intermediary agent, if necessary, in the placing out of minors.

In order to establish a correctional or training institution, the Government, which owns a considerable extent of land, will present the central council with the site required for the establishment of this institution. The property is to belong to the central council, and is never to be employed for purposes other than those connected with child welfare. Part of the expenses connected with the training and education of any minor placed in any establishment will be borne by the State, which will be entitled to claim payment from the persons who are bound to provide for the minor's keep and maintenance, or, should they be found to be unable to pay, from the commune where the minor's domicile may be.

Everyone in Poland, as elsewhere, understands perfectly well that on the crusade against juvenile criminality depends the struggle with criminality in general and that this crusade cannot be successfully carried out until a special law dealing with the matter as a whole has been passed.

THE BILL DEALING WITH JUVENILE COURTS IN THE POLISH REPUBLIC

The Bill consists of 93 articles and 14 temporary provisions.

Chapter 1, Arts. 1-9, form the fundamental provisions of the Bill,

viz. ages of complete irresponsibility, partial responsibility, full responsibility; measures to deal with profligate, mendicant or vagrant minors under seventeen years of age; *correction paternelle*, the question of discernment, etc.

Chapter 2, Arts. 10-16.—Measures to be taken to secure the Minor's Amendment

Art. 10.—(a) Reprimand, (b) return to parents, (c) entrust to the care of a suitable person, child-care or similar society, (d) send him to a State establishment.

Art. 11.—Treatment of abnormal children.

Art. 13.—Withdrawal of parental or tutelary authority.

Art. 14.—Power of Court to cancel measures taken and substitute others.

Chapter 3, Arts. 17-24.—Correctional Measures

Art. 19.—"Parole" under curator of children.

Chapter 4, Arts. 25-26.—Responsibility of adults who cause minors to offend.

Chapter 5, Arts. 27-32.—Organisation and Powers of Juvenile Courts

Character and selection of children's magistrate. Establishment of asylums and refuges for the detention of children in connection with every juvenile court.

Chapter 6, Arts. 35-63.—Juvenile Court Procedure

Art. 36, Par. 2.—All preliminary enquiries, as well as all proceedings with the object of collecting proofs, or of confirming them, are to be carried out by the children's magistrate or under his direction. The magistrate may entrust the carrying out of any of these enquiries and investigations to the curator, to a member of the child-care society, to the police authorities, or to any trustworthy individual.

Art. 38, Par. 1.—The object of the enquiries and investigations mentioned in art. 36 is to show:

(a) The circumstances attending the act with which the minor will be charged.

(b) The character and antecedents of the minor, the conditions under which he lives and has been brought up, the material and moral situation of the minor and his people, as well as the means most suitable to be employed for his amendment.

Par. 2.—Should it be deemed necessary, the magistrate shall direct the minor to be medically examined.

Art. 40, Par. 1.—In lieu of the preventive measures specified in the Civil Enquiry Code, the juvenile court shall order:

(a) The minor to be put under the supervision of his parents, guardians, or any other trustworthy person, they being held responsible for such supervision. To this shall be added, if necessary, the supervision of a curator. Or—

(b) The minor to be kept on in the asylum,

Art. 41, Par. 1.—When the enquiry is concluded, the children's magistrate shall fix the day for the hearing of the charge, or order the case to be dismissed, should he come to the conclusion that there is nothing amounting to an infringement of the law, or that there is an insufficiency of proofs, or if he ascertains there are other grounds warranting a non-prosecution.

Art. 46, Par. 1.—The juvenile court shall sit *in camera*.

Par. 2.—In addition to the persons who are admitted to the sittings *in camera*, according to what is laid down in the Criminal Enquiry Code, the representatives of juvenile care agencies shall also be admitted.

Art. 51, Par. 1.—The public prosecutor, any private individual, should he be prosecuting in the case, the minor himself, his parents or guardians, as well as the party defending him, shall be entitled to appeal within a fortnight counting from the day on which such decision shall have been given.

Art. 54, Par. 1.—It is forbidden to publish any reports of proceedings in a juvenile court.

Par. 2.—Reports, however, of the decisions given may be published, but no names are to be mentioned.

Par. 3.—Any breach of the above shall make the offender liable to be punished as the law directs.

Chapter 7, Art. 64, Par. 1.—When a minor from thirteen to seventeen years of age is jointly charged with grown-up persons, the proceedings as regards the minor shall be taken separately, and the charge against him shall be heard in the juvenile court.

Par. 2.—Should it be deemed in the interests of justice not advisable to divide the case, it shall be heard by the ordinary court which is competent in the matter, applications being made of arts. 40, 44, 45 and 27.

Par. 3.—The aforesaid court shall decide definitively whether the case is to be divided or not.

Chapter 8.—Juvenile Child-care Agencies

Art. 70.—There shall be established one or more juvenile care agencies within the district of every court of the first instance.

Art. 71, Par. 1.—The juvenile care agencies are to be established in conformity with what the law lays down in such matter.

Par. 2.—Each juvenile care agency shall send before beginning its work a copy of its statutes to the Ministry of Justice.

Art. 72.—The juvenile care agencies shall, within the meaning of the text of the present law, promote child welfare, and shall more particularly :

- (a) found and manage training and correctional institutions ;
- (b) choose candidates to act as curators for minors ;
- (c) carry out the instructions of the court ;
- (d) provide minors with counsel to defend them, should they be charged with any indictable offence ;
- (e) see to the placing out of minors ;
- (f) seek to promote the welfare of those who have been under the care of training or correctional institutions ;
- (g) see to the practical promotion of child welfare, within the

meaning of the text of the present law, and to that end shall notify the court of such information and proposals as they deem necessary.

Art. 73, Par. 1.—In order to promote child welfare, and to carry out the orders of the court, the children's magistrate shall secure every year a certain number of curators to collaborate with him. Such curators shall be chosen from among the candidates proposed by the juvenile care agency.

Art. 74.—Curators may be remunerated for their services, particularly those who have been proposed by the juvenile care agencies, such sums to be paid out of the funds at the disposal of such agencies, while those directly chosen by the magistrate shall be remunerated by the State.

Art. 75.—In order that the activities of the various agencies may be effectually co-ordinated, a Central Juvenile Care Agency Council shall be established at Warsaw.

Art. 76, Par. 1.—The central council shall be composed of :

(a) Five representatives of the juvenile care agencies of the area within which the Warsaw Court of Appeal exercises its jurisdiction. The said five representatives shall be elected for three years by the managing committee of these agencies by mutual agreement.

(b) Two representatives of the juvenile care agencies of each of the areas within which the other courts of appeal exercise jurisdiction. The said representatives to be elected by mutual agreement for three years by the managing committees of the agencies of each area.

Par. 2.—The central council may further add to its number by co-optation, for each of these periods of three years, by choosing persons reputed for the theoretical and practical activity they have shown in juvenile care work. The number so chosen shall not exceed six.

Art. 77.—The central council shall—

- (a) found and keep up training and correctional institutions ;
- (b) supervise and control the work of juvenile agencies ;
- (c) publish general instructions intended for juvenile care agencies ;
- (d) check the statistics relating to agencies placed under the supervision of the central council ;
- (e) collect funds intended for the different branches of juvenile care work ;
- (f) give grants to juvenile care agencies ;
- (g) control the working of the central council committee ;
- (h) give its opinion on matters concerning juvenile care within the meaning of the text of the present law ;
- (i) summon juvenile care agency congresses ;
- (j) co-operate with the State authorities and the departments of the autonomous administration as regards questions relating to the protection of minors within the meaning of the text of the present law ;
- (k) publish books, pamphlets and other works dealing with the question of juvenile courts and the protection of minors within the meaning of the text of the present law ;
- (l) publish reports on the different branches of its work.

Art. 81.—The members of the central council may be remunerated.

Art. 82.—The agencies and the Central Juvenile Care Council shall have a juridical status.

Art. 83, Par. 1.—The Central Juvenile Care Council, as well as the juvenile care agencies, shall be under the control of the Minister of Justice.

Chapter 9, Arts. 85–87.—Correctional Establishments

Art. 85.—All correctional establishments shall be placed under the supervision of the Minister of Justice and under the immediate control of the competent children's magistrate.

Art. 86.—There shall be separate correctional establishments for minors of either sex.

Art. 87, Par. 1.—The education given in a correctional establishment shall be on religious lines. Children and youths committed to such establishments shall be habituated to regular work and to the fulfilment of their civic duties.

Par. 2.—The inmates shall be given a general education not to exceed the syllabus of the primary and technical schools, in order to prepare them for the exercise of a calling.

Par. 3.—Exceptionally gifted inmates may be given a secondary and higher education.

Chapter 10, Arts. 88–93.—State Grants

Art. 88.—The Minister of Justice shall set apart the necessary funds for the upkeep of correctional establishments (*Art. 83, par. 1*) of training establishments (*art. 10 (d)*) and asylums (*art. 31*).

Art. 90.—When committing minors to the care of persons or institutions or organisations mentioned in *art. 10 (c)* and *II*, the court may order a suitable indemnity to be paid.

Art. 93.—The State treasury, on the proposal of the Minister of Justice (*art. 84, par. 2*), shall set aside for every training and correctional establishment a piece of land suitably situated for the needs and requirements of such an establishment.

Temporary Provisions.—Art. I–XIV

Art. I, Par. 1.—The present law shall come into operation within a year from the date of its publication.

Par. 2.—The Minister of Justice shall have the right to postpone the coming into operation of the present law in certain judiciary districts.

Arts. III and IV deal with adjustments of the Austrian Penal Code necessitated in Polish territory which was formerly Austrian.

Arts V and VI adjust the German Penal Code of 15th May 1871, and the Press Law 1884, to Polish territory which was formerly German.

Arts VII–XI adjust Prussian law similarly.

Arts. XII–XIII adjust Hungarian law similarly.

Art. XIV makes alterations necessitated in the law dealing with the salaries of magistrates and procurators of the Republic of Poland.