



GROUND AND PROCEDURE FOR APPLYING CRIMINAL PROCEDURAL COERCIVE AND PREVENTIVE MEASURES TO CHILDREN

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Article history:		Abstract:
Received:	24 th April 2026	This article examines the legal grounds, procedural framework, and human rights safeguards governing the application of criminal procedural coercive and preventive measures to children in Uzbekistan. It analyzes constitutional guarantees, relevant provisions of the Criminal Procedure Code, and the special mechanism of placing a child under supervision as an alternative to detention. Particular attention is devoted to the best interests of the child, proportionality, protection of dignity, and the use of deprivation of liberty only as a measure of last resort. The study also considers international standards established by the Convention on the Rights of the Child, the Beijing Rules, Tokyo Rules, Havana Rules, and Riyadh Guidelines. Through comparative legal analysis, the article reviews juvenile justice practices in Germany, England and Wales, Scandinavian countries, Japan, and the United States. It concludes that Uzbekistan should further develop child-sensitive, rehabilitative, non-custodial, and multidisciplinary approaches consistent with international standards and contemporary juvenile justice principles.
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The Constitution of the Republic of Uzbekistan in its new edition has established an entirely new and solid legal foundation for upholding human dignity, elevating human rights and freedoms to the status of supreme values, and ensuring the rule of law in our country. The adoption of this historic document has made strict compliance with the principles of legality, justice, and humanism an essential priority in criminal procedural activities, particularly in the practice of applying coercive and preventive measures to children, who constitute the most vulnerable segment of society and are not yet fully developed socially and psychologically. The fact that Article 1 of the Constitution firmly establishes Uzbekistan as a "legal state" means that state authorities and administrative bodies, including inquiry, investigative, and judicial authorities, are required to carry out their activities strictly within the framework of the law and with respect for human rights¹. This provision guarantees that the rights of children are not violated at any stage of criminal proceedings and that any procedural

restrictions imposed on them are applied only when strictly necessary, in accordance with the procedure and within the limits established by law.

Article 78 of the Constitution establishes a provision according to which the state shall create the necessary conditions to ensure the rights, freedoms, and legitimate interests of the child and shall promote the child's full physical, intellectual, and spiritual development. This provision has provided a basis for the full implementation of the principle of the "best interests of the child" in national legislation. This means that when a child is involved as an accused person in criminal proceedings, the inquiry officer, investigator, or judge, when selecting a preventive measure, must carefully assess not only the prompt and comprehensive investigation of the criminal case, but, first and foremost, how the coercive or preventive measure being applied may affect the child's future, health, and psychological and physical development.

Article 31 of the Constitution adopted in its new edition establishes everyone's right to privacy, personal

¹ Constitution of the Republic of Uzbekistan (adopted by nationwide vote at the referendum of the Republic of Uzbekistan held on April 30, 2023) // National Database of

Legislation, May 1, 2023, No. 03/23/837/0241. URL: <https://lex.uz/docs/6445145> (accessed: March 31, 2026).



and family secrets, and protection of their honor and dignity. This provision imposes an obligation on state authorities not to disclose information concerning children in criminal proceedings, not to damage their reputation in society, and not to create obstacles to their return to a normal life (reintegration) in the future. On the basis of these strong constitutional guarantees, the Criminal Procedure Code of the Republic of Uzbekistan (CPC) strictly regulates, through specific provisions, the procedural actions carried out in criminal cases involving children, in particular, the procedure for applying coercive and preventive measures.

By their nature, criminal procedural coercive measures are aimed at restricting a person's freedom of movement and personal inviolability. They are primarily applied for the purpose of preventing obstruction of the establishment of the truth in a criminal case, preventing a suspect or accused person from absconding from the investigation and the court, and putting an end to the continuation of their criminal activity. However, when applied to children, these measures should, by their very nature, serve not punitive purposes, but rather preventive purposes such as education, protection, and safeguarding the child from committing further mistakes.

In addition, Article 555 of the CPC provides detailed regulation of the preventive measures that may be applied to children involved as accused persons in criminal proceedings. According to this provision, where the grounds provided for in Article 236 of the CPC exist, one of the preventive measures provided for in Article 237 of this Code may be applied to a child involved as an accused person in a criminal case. The child may also be placed under the supervision of their parents, guardians, or custodians, or, if the child is being raised in a children's institution, under the supervision of the head of that institution. It is also stipulated that, when a preventive measure is applied to a child involved as an accused person, the child's legal representative must be notified thereof, and, if there is no such representative, the child's other relatives must be notified².

In our national criminal procedural legislation, with the aim of protecting children's rights and preventing their separation from society, a special and distinctive preventive measure applicable exclusively to this category of persons has been established, namely,

the institution of placing a child under supervision, which is enshrined in Article 253 of the CPC. The essence of this preventive measure is that a child suspected or accused of committing a crime is not placed in detention facilities and is not separated from society or from their usual social environment. Instead, the responsibility for ensuring the child's proper conduct, preventing them from committing new offenses, and ensuring their timely appearance upon the first summons of the inquiry officer, investigator, or court is entrusted to their parents, guardians, custodians, or the administration of the special institution in which the child is being raised (for example, a children's home). When this measure is applied, the persons assuming responsibility for supervision are warned of their liability and procedural obligations, and a written undertaking is obtained from them. If the child violates the established rules or absconds from the investigation, the persons who have taken the child under supervision may be subject to a fine in accordance with the procedure established by law. The advantage of the preventive measure of placing a child under supervision is that it puts into practice the principle enshrined in Article 76 of the new Constitution, which provides that "the family is the primary unit of society and has the right to be under the protection of society and the state"³. It protects the child from the negative influence of detention facilities and from becoming involved in the commission of further crimes in the future, while creating conditions for the child's education to continue without interruption and for their rehabilitation within the family environment.

These humane and democratic provisions of our national legislation did not emerge spontaneously; rather, they are based on the universally recognized principles and norms of international law. The issue of applying criminal procedural coercive measures to children has consistently remained a matter of attention for the international community, and a number of fundamental international instruments have been adopted in this area. Among them, the most important instrument, ratified by the Republic of Uzbekistan in 1992, is the United Nations Convention on the Rights of the Child. This Convention is regarded as a kind of "constitution" for the protection of children's rights

² **Criminal Procedure Code of the Republic of Uzbekistan** (approved on September 22, 1994) // Bulletin of the Supreme Council of the Republic of Uzbekistan, 1995, No. 2, Article 50. National Database of Legislation. URL: <https://lex.uz/docs/111460>

³ **Constitution of the Republic of Uzbekistan** (adopted by nationwide vote at the referendum of the Republic of Uzbekistan held on April 30, 2023) // National Database of Legislation, May 1, 2023, No. 03/23/837/0241.



throughout the world⁴. According to the fundamental principle established in Article 3 of the Convention, in all actions concerning children undertaken by public institutions, courts, administrative authorities, or legislative bodies, primary consideration must be given to ensuring the best interests of the child. Article 37 of the Convention is directly devoted to the protection of children within the criminal justice system and expressly provides that no child shall be subjected to unlawful or arbitrary deprivation of liberty. According to this article, the arrest, detention, or deprivation of liberty of a child must be carried out in accordance with the law, and such measures shall be used only as a "measure of last resort" (*ultima ratio*) and for the shortest appropriate period of time. Furthermore, every child deprived of liberty has the right to be treated with humanity and with respect for the inherent dignity of the human person, taking into account the needs of persons of their age, and must be separated from adults unless it is considered in the child's best interests not to do so. Article 40 of the Convention further emphasizes that every child alleged as, accused of, or recognized as having infringed the penal law has the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others. In this regard, due account must be taken of the child's age and of the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The specific mechanisms and standards for implementing the provisions of this Convention in practice are reflected in a number of other international rules adopted by the United Nations. Among them, the most important are the "United Nations Standard Minimum Rules for the Administration of Juvenile Justice," adopted in 1985 and internationally known as the "Beijing Rules"⁵. The Beijing Rules established a unified and humanistic approach to juvenile justice recognized throughout the world. One of the central ideas of these Rules is strict adherence to the principle of "proportionality" when applying procedural coercive measures. Paragraph 17 of the Beijing Rules provides that any restrictive measure applied to children must always be proportionate not only to the circumstances

and gravity of the offense committed, but also to the child's personality, circumstances and needs, as well as the needs of society. This means that if a child has committed a relatively minor offense, but has difficult family circumstances, the immediate application of detention would constitute a violation of the principle of proportionality. Furthermore, paragraph 11 of the Beijing Rules recommends the broad use of "diversion," that is, the practice of removing children from the formal criminal justice system and resolving their cases through alternative, informal means. The essence of diversion is that, instead of bringing a child who has committed an offense before a court, alternative methods of resolving the matter are applied with the child's consent, including through the involvement of the local community, social services, or reconciliation with the victim. This protects the child from being stigmatized as a "criminal" and from the psychological trauma associated with criminal proceedings. Paragraph 13 of the Rules addresses pre-trial detention and establishes that it should be used only as a measure of last resort when other alternatives are not feasible. Children who are detained must be brought before a court as soon as possible, and alternative measures, such as bail, close supervision, or placement with the family, must be sought for them.

Within the system of international standards, the "United Nations Standard Minimum Rules for Non-custodial Measures," adopted in 1990 and known as the "Tokyo Rules," are also of particular importance with regard to children⁶. The Tokyo Rules encourage the development and application of a broad range of measures as alternatives to deprivation of liberty within the criminal justice system. These Rules call upon states to introduce modern measures into procedural legislation aimed at reducing the detention of children, such as house arrest, electronic monitoring, probation supervision, community service, or daytime attendance at specialized centers. The objective is to establish supervision over the offender without isolating them from society and to assist in their reintegration into society. If, despite all the efforts described above, an objective necessity arises to keep a child in a detention facility or prison, this process must be carried out in accordance with another United Nations instrument

⁴ **United Nations Convention on the Rights of the Child** (adopted on November 20, 1989; acceded to pursuant to Resolution No. 757-XII of the Supreme Council of the Republic of Uzbekistan dated December 9, 1992) // National Database of Legislation. URL: <https://lex.uz/docs/128913>

⁵ **United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)** (adopted by United Nations General Assembly Resolution

40/33 of November 29, 1985) // Collection of International Treaties and Instruments on Human Rights.

⁶ **United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)** (adopted by United Nations General Assembly Resolution 45/110 of December 14, 1990) // Collection of International Treaties and Instruments on Human Rights.



adopted in 1990, the "United Nations Rules for the Protection of Juveniles Deprived of their Liberty," known as the "Havana Rules"⁷. The Havana Rules contain detailed provisions aimed at protecting the fundamental rights of every child deprived of liberty, as well as their health, safety, and human dignity. According to these Rules, all necessary conditions must be created to ensure that children in detention can continue their education without interruption, have access to quality medical and psychological services to maintain their physical and mental health, and regularly meet with their family members, relatives, and legal representatives without any obstacles. The international community fully recognizes that the prison environment, by its very nature, has a negative impact on children. Therefore, minimizing this impact and ensuring that the child's normal human development is not interrupted constitute a direct obligation of the state. The United Nations "Guidelines for the Prevention of Juvenile Delinquency," adopted in 1990 and known as the "Riyadh Guidelines," address the root causes of the problem and emphasize that the most effective way to prevent crime is not punishment, but the healthy socialization of children from an early age, providing them with education and upbringing, and strengthening the institution of the family. The Guidelines also promote limiting, as far as possible, the involvement of children in the formal justice system⁸.

In order to understand the extent to which these high international standards operate in practice and how they have served as the basis for specific models in different legal systems, it is of great importance to conduct a comparative analysis of the best practices of developed foreign countries. A review of foreign practice clearly demonstrates that today, in many developed countries, the system of applying criminal procedural coercive measures to children has completely moved away from the traditional model of "punishment and isolation" and has instead adopted a comprehensive model based on "education, rehabilitation, social support, and reintegration into society". In particular, in the legal practice of the Federal Republic of Germany, one of the leading legal

systems in Europe, cases involving children are considered not under ordinary criminal legislation, but under a separate and specially adopted law, the "Youth Courts Act" (Jugendgerichtsgesetz – JGG)⁹. The fundamental philosophy of the German system is based on the principle that "education takes priority over punishment". Under this system, the preventive measure of pre-trial detention (Untersuchungshaft) is applied to children during an investigation only in extremely rare cases, primarily when particularly serious violent crimes posing a very high risk to society have been committed. A distinctive and unique feature of German legislation is the institution known as "Jugendarrest," or "youth detention". The purpose of this measure is not to keep a child in detention for a long period and disrupt their life, but rather to provide a short-term, preventive form of detention lasting several days or, at most, up to four weeks, serving as a form of "shock therapy" intended to make the child understand the seriousness of their actions and the authority of the law. If the crime committed by the child is not particularly serious, measures involving deprivation of liberty are generally not applied. Instead, the child is placed under state supervision and required to participate in various forms of socially beneficial work or is referred to specialized psychological training aimed at reducing aggressive behavior. This approach protects the child from being exposed to the environment of actual offenders and provides an opportunity for the child to return to the proper path.

In the legal system of England and Wales in the United Kingdom, one of the most effective multidisciplinary and integrated approaches in the world to working with children who commit offenses has been widely and successfully implemented through the "Youth Offending Teams" (YOT) system¹⁰. The distinctive feature of this system is that it does not rely solely on the powers of the police or courts, but instead involves institutions across society. As a rule, as soon as a child is apprehended by the police for, or suspected of, committing an offense, this is reported not only to the investigative authority but also immediately to the relevant local YOT, which consists of professional social

⁷ **United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules)** (adopted by United Nations General Assembly Resolution 45/113 of December 14, 1990) // Collection of International Treaties and Instruments on Human Rights.

⁸ **United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)** (adopted by United Nations General Assembly Resolution 45/112 of December 14, 1990) // Collection of International Treaties and Instruments on Human Rights.

⁹ **Youth Courts Act of the Federal Republic of Germany (Jugendgerichtsgesetz – JGG)** // Official Legal Portal of the German Federal Ministry of Justice. URL: <https://www.gesetze-im-internet.de/jgg/>

¹⁰ **Crime and Disorder Act 1998. Section 39 (Youth Offending Teams)** // Official Legislation Database of The National Archives of the United Kingdom. URL: <https://www.legislation.gov.uk/ukpga/1998/37/section/39> (accessed: March 31, 2026).



workers, representatives of the healthcare system, teachers from schools and educational institutions, psychologists, and police officers. These specialists immediately begin their work and conduct a comprehensive and in-depth assessment of the child's personality, family and financial circumstances, academic performance, psychological condition, and all negative factors that may have contributed to the child's commission of the offense. They then provide the court or prosecutor with scientifically and practically substantiated conclusions and recommendations concerning the specific social, medical, or educational and rehabilitative assistance that can be provided to the child to help them return to the proper path without placing them in a detention facility. In many cases, instead of ordering detention, the court accepts the supervision of the YOT and directs the child to "community punishment" or "social supervision" programmes. In this way, the child remains not behind prison bars, but at a school desk and under the firm yet supportive supervision of social workers, which, in turn, has contributed to a significant reduction in recidivism among children.

The experience of the Scandinavian countries, particularly Norway and Sweden, has become an example for the world due to their almost complete rejection of keeping children in detention and, in general, of punishing them in prisons, with their primary focus being placed on ensuring children's welfare¹¹. According to the legal philosophy of these countries, a child's commission of a crime is regarded not merely as the child's fault, but as a tragic consequence of the failure of the state, society, and family to provide the child with sufficient care and adequate social protection. For this reason, in these countries, the conventional justice system dealing with children's cases is closely integrated with social protection and child welfare services (Child Welfare Boards). In Norway and Sweden, even children who have committed particularly serious crimes are not placed in conventional prisons with iron doors and bars. Instead, they are placed in open or semi-open "Youth Homes," whose external appearance and internal conditions resemble an ordinary comfortable home or boarding school, but where they remain under the constant and strict supervision of highly qualified educators and specially trained psychologists. In these institutions, children are not isolated from society. They continue their regular

education, participate in sports competitions, and, most importantly, acquire various vocational skills necessary for their future return to society as fully independent members. Such a humane and integrative approach has contributed to Scandinavian countries maintaining some of the lowest levels of juvenile crime and, in particular, recidivism among children in the world.

The juvenile justice system of Japan, one of the leading countries of the Eastern world, is based on an entirely different, Eastern and paternalistic philosophy, centered on the principle of parental care. In Japan, the institution of "Family Courts" serves as the central and decisive body in this process¹². Under Japanese national legislation, any person under the age of twenty is considered a child, and any offense committed by such a person, even one of the most serious offenses, is initially considered not by an ordinary criminal court, but specifically by a Family Court. The function and purpose of this court is not to punish the offender as quickly as possible or to place them in detention based on the materials collected by investigative authorities. Rather, with the assistance of specialized research psychologists and social workers who actively participate in the proceedings, its purpose is to conduct an in-depth examination of the underlying psychological causes that led the child to commit the offense, hidden problems within the family, and conflicts with peers at school, and to identify and address these problems. Under this system, the child is not perceived as a "hardened criminal," but rather as a "person who has gone astray and is in need of help." If the court researcher determines that the child still has the capacity for positive change and has a strong potential to return to the proper path and undergo rehabilitation, the Family Court may, without applying any severe criminal procedural coercive measure, return the child to their parents subject to strict family supervision or place them in a long-term probation (supervision and monitoring) programme. A decision to place a child in detention or send them to a youth detention facility is made only in exceptionally complex cases where the situation is considered irreparable. This system has proven effective in Japan as one of the strongest means of controlling juvenile crime.

In the legal system of the United States, although excessively harsh punishments are still applied to children in some states, over the past twenty years, major national programmes such as the "Juvenile

¹¹ **Norway's Child Welfare Act (Barnevernloven – Act of 17 July 1992 No. 100 relating to Child Welfare Services)** // Official Electronic Database of Norwegian Legislation.

¹² **Japan's Juvenile Act (Act No. 168 of 1948) and Court Act (Act No. 59 of 1947)** // Official Legal Information Database of the Ministry of Justice of Japan (Japanese Law Translation).



Detention Alternatives Initiative" (JDAI) have been implemented throughout the country with the aim of reducing the extremely high economic costs of keeping children in detention facilities and mitigating the severe negative consequences this has on children's psychological well-being¹³. Within the framework of the JDAI programme, modern digital and information technologies, particularly electronic ankle bracelets and remote GPS monitoring systems, have been widely and effectively introduced. Through this high-technology system, a child suspected of committing a crime is not placed in a pre-trial detention facility, but is instead allowed to move relatively freely within their home, family environment, and school. At the same time, their location is continuously monitored remotely in real time by the police or probation service through an electronic bracelet attached to their ankle or wrist. The child is permitted to move only within designated areas, such as their home, school, and hospital, and as soon as they move even one meter beyond the established safe zone, an automatic notification is sent to the central monitoring service. This method is becoming increasingly widespread as one of the most effective, modern, and humane preventive measures for preventing a child from committing a new crime or absconding from the investigation without isolating them from society and their family, while also reducing expenditure from the state budget.

In conclusion, the practice of applying criminal procedural coercive and preventive measures to children is not merely a formal legal and procedural process, but an extremely sensitive and important social, educational, and psychological process that directly affects the future of the younger generation. The recent legal reforms being implemented in the Republic of Uzbekistan, particularly the adoption of the new edition of the Constitution, have ushered in a new, more humane era in this area. Today, there is a need to enrich and further improve our national criminal procedural legislation and law enforcement practice with the highly humane principles of international conventions, particularly the Beijing and Tokyo Rules, as well as with the best aspects of advanced foreign practices that are compatible with our national mentality, such as Germany's educational approach, England's multidisciplinary approach, the Scandinavian countries' integrative approach, and Japan's Family Court system. There is only one goal: not to lose every child who has entered the path of crime by punishing and imprisoning them, but rather to show them the right

path, educate them, and return them to society as full-fledged, healthy, and constructive members. Only through such a humanistic approach can we strengthen the foundations of the rule-of-law state and ensure the safety of future generations.

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¹³ **Juvenile Detention Alternatives Initiative (JDAI)** // The Annie E. Casey Foundation (official information database of

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