

JUVENILES IN EU CRIMINAL LAW: COMPARATIVE PERSPECTIVES AND CHALLENGES¹

Prof. dr Veljko Turanjanin

*Associate professor, University of Kragujevac, Faculty of Law, turanjaninveljko@gmail.com;
<https://orcid.org/0000-0001-9029-0037>*

Abstract: *This manuscript examines the legal position of juveniles in the European Union (EU) legal framework, focusing on procedural safeguards, rehabilitation measures, and challenges in implementation. It explores relevant directives, the European Convention on Human Rights (ECHR), and the Charter of Fundamental Rights of the EU. The paper also highlights discrepancies in enforcement across Member States and proposes recommendations for harmonization. The EU legal framework emphasizes the protection of children's rights in criminal proceedings, ensuring their fair treatment and promoting social reintegration over punitive measures. By analysing the relevant legal instruments and judicial interpretations, this paper identifies gaps in the current system and suggests policy solutions to enhance juvenile justice across the EU.*

Keywords: *Juvenile justice, EU law, procedural safeguards, rehabilitation, legal framework, children's rights, restorative justice, diversion programs, alternative sanctions, fair trial, legal representation.*

1. INTRODUCTION

Juvenile justice is a critical component of human rights protection within the EU legal framework. Recognizing the unique vulnerabilities of minors, the EU has established procedural safeguards and emphasized rehabilitation over punitive measures. This paper provides an overview of key legal instruments, examines challenges in their application, and offers recommendations for improving juvenile justice in the EU. Juvenile delinquency has become an increasingly prominent issue in Europe (Kochanczyk & Stachelek, 2018, p. 117). According to leading perspectives, the extent of juvenile crime today determines the future crime rates of a given society (Soković, 2013, p. 24). In contemporary legal discourse, juvenile delinquency is recognized as a distinct type of criminal behavior, given that its defining characteristic—minor status—denotes a phase of life where psychophysical development and socialization are still ongoing. Consequently, the specificities of juvenile delinquency are closely linked to the biological and psychosocial characteristics of minors, as well as to the special position they occupy within the

¹ The paper was written as part of the EU Criminal Law project, number 101176650 – ECL, funded by the European Union under the Erasmus-JMO program.

legal system (Nikolić-Ristanović, 2012, p. 184). The chances of rehabilitating juvenile offenders are significantly higher than those of adult offenders, which is why educational measures, combined with careful treatment in criminal proceedings, are generally considered more appropriate for juveniles (Nikolić-Ristanović, 2012, p. 184). Theoretical perspectives suggest that most juveniles will abandon criminal activities by the end of adolescence, although a small fraction will continue engaging in criminal behaviour (Luković, 2018, p. 535).

From a legal standpoint, juvenile delinquency is addressed differently from adult crime in contemporary criminal legislation. These legal matters are either regulated by special legal provisions or within dedicated sections of criminal codes (Soković & Bejatović, 2009, p. 15). Moreover, specific criminal sanctions apply to juveniles, which vary across legal systems and are referred to as educational sanctions, protective measures, or security measures (Ćorović, 2015, p. 240). The literature highlights numerous justifications for a distinct juvenile justice system, despite the persistent challenges associated with its implementation (Perić, 2006, p. 18). The modern juvenile justice system was developed in Western countries—such as the United States, the United Kingdom, and Australia—at the turn of the 20th and 21st centuries. These newly established justice systems for children and youth were based on the legal doctrine of *parens patriae*, whereby the state assumes the role of the ultimate guardian of children (Platt, 1997; Jensen & Jepsen, 2006, pp. 1–12). Under this doctrine, the state is authorized to exercise its authority over parental rights when the best interests of the child necessitate state intervention. Similar trends emerged in Scandinavian countries, where the jurisdiction of adult criminal courts over juvenile offenders was abolished and replaced with municipal social work committees instead of traditional juvenile courts (Jensen & Jepsen, 2006, p. 2).

Throughout the development of juvenile criminal law, two fundamental models of juvenile justice have been established: the *welfare model*, which emphasizes protection and rehabilitation, and the *justice model*, which aligns more closely with traditional judicial proceedings. Additionally, a third, hybrid model has emerged, integrating elements of both approaches (Ćorović, 2013, pp. 50–51; Škulić, 2011, pp. 98–108; Soković & Turanjanin, 2024, p. 91).² In modern criminal

² For a comprehensive analysis of the position of juveniles in criminal law, see Bugarski and Samardžić (2012), Castañón (2013), Cerović and Brašić (2016), Douglas (2004), Fattah (2001), Jančić (2009), Jensen and Jepsen (2006), Kochanczyk and Stachelek (2018), Komar (2008), López Martín (2001), Luković (2018), Millar and Dandurand (2018), Nikolić-Ristanović (2012), Palacio Sánchez Izquierdo (2000), Perić (2006), Platt (1977), Pleić and Radić (2019), Ponjavić (2009), Radić (2018), Selman et al. (2010), Silval (2006), Soković (2013), Soković and Bejatović (2009), Soković and Turanjanin (2024), Stanila and Stan (2018), Stapleton (2006), Turanjanin and Ivanović (2021), Valcu (2016), Vocht et al. (2014), Ćorić (2019), Ćorović (2012, 2013, 2015), Škulić (2011), as well as Bejatović (2024), Đokić (2024), Jeličić (2024), Škulić and Stevanović (2024), and Turanjanin (2024). These sources cover various aspects of juvenile justice, including legal safeguards, diversion mechanisms, procedural rights, judicial practices, and the broader socio-legal framework governing juveniles in criminal proceedings across different jurisdictions.

legislation, it is crucial to uphold the principle of the best interests of the child in criminal proceedings. Although this standard is not explicitly stated in the Serbian Law on Juvenile Offenders and Criminal Protection of Juvenile Victims, it must be carefully considered in light of international legal norms. Serbian legislation should be harmonized with these international legal standards and implement the minimum rights enshrined in the judgments and interpretations of the European Court of Human Rights.

2. INTERNATIONAL AND EUROPEAN LEGAL FRAMEWORK ON JUVENILE JUSTICE

2.1. United Nations Framework on Juvenile Justice

The United Nations (UN) framework provides the foundational principles for the protection of juvenile offenders' rights through a set of international legal instruments that emphasize the best interests of the child, rehabilitation, and reintegration over punitive measures. Among the most significant instruments shaping juvenile justice are the United Nations Convention on the Rights of the Child (CRC) and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). These instruments establish fundamental principles and guidelines to ensure that children in conflict with the law are treated in a manner that promotes their well-being and dignity.

Adopted by the United Nations General Assembly in 1989, the Convention on the Rights of the Child (CRC) is the most comprehensive and widely ratified international treaty concerning children's rights. It outlines fundamental rights and protections for minors, including those in conflict with the law, with an overarching principle that the best interests of the child must be a primary consideration (Article 3). In the context of juvenile justice, several articles within the CRC are particularly relevant:

- Article 37 prohibits torture and cruel, inhuman, or degrading treatment or punishment. It also sets forth the principle that the detention or imprisonment of a child should only be used as a measure of last resort and for the shortest appropriate period of time. This provision emphasizes the need for alternative, non-custodial measures whenever possible.
- Article 40 specifically addresses juvenile justice and guarantees children accused of committing offenses the right to a fair trial, legal assistance, and humane treatment that considers their age and potential for reintegration into society. This article also promotes diversion from formal judicial proceedings, favouring rehabilitation-focused solutions over punitive responses.
- Article 39 calls upon states to facilitate the physical and psychological recovery and social reintegration of child victims of any form of neglect, exploitation, or abuse, including those involved in the justice system.

The CRC introduced a paradigm shift in juvenile justice, requiring states to adopt systems that are not only legally protective but also rehabilitative and restorative. Countries that have ratified the CRC—including all EU Member States—are obligated to incorporate its principles into their domestic legislation.

Adopted by the UN General Assembly in 1985, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, commonly known as the Beijing Rules, were the first international legal document specifically dedicated to juvenile justice. These rules establish comprehensive guidelines on the treatment of children in the justice system, aiming to balance crime prevention, the protection of society, and the rehabilitation of young offenders. The rules advocate for a preventive approach to juvenile delinquency, highlighting the importance of early intervention through education, family support, and community involvement. Diversion from formal judicial proceedings is encouraged whenever possible, meaning that instead of facing criminal trials, minors should be referred to social services, mediation programs, or educational measures. Furthermore, the rules stress that juveniles must be treated in a manner that respects their dignity and rights. Pre-trial detention should be avoided whenever possible, and if imposed, it must be for the shortest period necessary. Children must have access to legal representation and a fair judicial process.

The Beijing Rules emphasize that sanctions imposed on juveniles must be proportionate not only to the offense but also to the offender's personal circumstances. The justice system should prioritize measures that support rehabilitation and social reintegration, such as probation, vocational training, and community service. Also, states are encouraged to establish separate juvenile courts and procedures that differ from adult criminal courts. Judges, law enforcement officers, and social workers dealing with juvenile cases should receive specialized training to ensure child-sensitive procedures. Even when formal judicial proceedings take place, the focus should remain on rehabilitation rather than punishment. Young offenders should be provided with educational opportunities, vocational training, and psychological support to facilitate their reintegration into society.

The CRC and Beijing Rules have had a profound influence on European legal standards for juvenile justice. They serve as a foundation for EU directives and national laws governing the treatment of minors in conflict with the law. The principles enshrined in these instruments—such as the best interests of the child, diversion programs, and rehabilitation-oriented sanctions—have been incorporated into EU Directives, Council of Europe recommendations, and national juvenile justice systems across Member States.

In practice, the EU has reinforced these international obligations through legal instruments such as Directive (EU) 2016/800 on procedural safeguards for children and policies aimed at minimizing juvenile incarceration while maximizing alternatives to detention. Many European states have developed specialized juvenile justice systems, ensuring that courts, detention facilities, and rehabilitative programs align with UN standards.

The United Nations framework, particularly through the Convention on the Rights of the Child (CRC) and the Beijing Rules, establishes a global standard for juvenile justice that prioritizes rehabilitation, protection, and social reintegration. By advocating for non-punitive responses, proportionality in sentencing, and alternative measures to detention, these instruments provide a legal and ethical foundation upon which national and regional juvenile justice systems—including those within the European Union—are built. Their principles continue to shape legislative reforms, judicial practices, and policy developments, ensuring that minors in conflict with the law are treated with fairness, dignity, and a forward-looking approach to justice.

2.2. Council of Europe Instruments on Juvenile Justice

The Council of Europe (CoE) plays a crucial role in the protection of juvenile rights, particularly in the context of criminal justice. Its legal instruments establish binding obligations for Member States to ensure that minors receive fair treatment and that their fundamental rights are protected in legal proceedings. The most significant CoE instrument in this area is the European Convention on Human Rights (ECHR), which, alongside the jurisprudence of the European Court of Human Rights (ECtHR), has shaped the legal landscape for juvenile justice across Europe. These sources provide key procedural safeguards and set legal standards for the treatment of minors in the criminal justice system.

The ECHR, adopted in 1950, is one of the most influential human rights treaties in Europe. It guarantees fundamental rights and freedoms, including those applicable to juveniles involved in criminal proceedings. Although the ECHR does not contain provisions exclusively dedicated to children, the European Court of Human Rights (ECtHR) has interpreted its articles to extend specific protections to minors, recognizing their unique vulnerabilities and the necessity of child-sensitive judicial procedures. Several ECHR provisions are particularly relevant to juvenile justice:

- **Article 3: Prohibition of Torture and Inhuman or Degrading Treatment.** This article prohibits the infliction of torture, inhuman or degrading treatment, or punishment. In the context of juvenile justice, ill-treatment of minors in detention facilities, excessive use of force during arrest, and inappropriate sentencing practices have been challenged under Article 3 before the ECtHR. The Court has held that minors require special protection in detention settings, including adequate healthcare, psychological support, and conditions tailored to their developmental needs.
- **Article 5: Right to Liberty and Security.** This article establishes the right of individuals, including minors, not to be arbitrarily detained. The detention of a juvenile must be lawful, justified, and necessary, with clear procedural safeguards ensuring that detention is used only as a last resort and for the shortest possible period. The ECtHR has ruled that juveniles must be

- detained separately from adults and that their detention conditions must be appropriate to their age and psychological development.
- Article 6: Right to a Fair Trial. This article guarantees the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal. In the case of juveniles, the Court has recognized that fair trial rights must be adapted to their age and level of maturity. This includes:
 1. The right to legal assistance, preferably from professionals trained in juvenile justice.
 2. The right to participate effectively in proceedings, meaning that courts must ensure minors understand the nature of the charges and procedures.
 3. The right to privacy, as public trials may have lasting negative consequences on a minor's social reintegration.
 - Article 8: Right to Respect for Private and Family Life. This article ensures that the privacy of juveniles in criminal proceedings is protected. The ECtHR has ruled that juveniles should not be subjected to media exposure that could stigmatize them and hinder their reintegration. The Court has also emphasized the importance of family involvement in juvenile proceedings, recognizing the role of parental support in rehabilitation.
 - Article 2 of Protocol No. 1: Right to Education. The Court has ruled that juveniles deprived of liberty must have access to education and vocational training to facilitate their reintegration into society.

The ECtHR has played a fundamental role in developing standards for juvenile justice by interpreting the ECHR in cases involving minors. Through its decisions, the Court has set key precedents regarding the treatment of juveniles in criminal proceedings, detention conditions, and the importance of rehabilitation-focused measures.

Some landmark cases that have shaped the treatment of juveniles in the European legal framework include *T. v. The United Kingdom* (1999) and *V. v. The United Kingdom* (1999). These cases concerned two juveniles, aged 10 at the time of their offense, who were tried in an adult court for murder. The ECtHR ruled that their trial violated Article 6 (right to a fair trial) because the proceedings were not adapted to their age, level of understanding, or psychological maturity. The Court emphasized that minors must be given special protection in judicial settings, including the right to legal representation, psychological assessments, and child-sensitive procedures.

In *Blokhin v. Russia* (2016), the applicant, a minor, was placed in a juvenile detention centre without a formal trial. The Court ruled that his detention violated Article 5 (right to liberty and security), as the state had failed to provide adequate procedural safeguards. The judgment reinforced that juvenile detention must always be subject to judicial review and used only when strictly necessary. Furthermore, *Bouamar v. Belgium* (1988) case involved a minor repeatedly placed in detention due to a lack of appropriate social welfare facilities. The ECtHR found a violation of Article 5, ruling that detention should not be used as a substitute for child welfare

services. The decision underscored the importance of non-custodial alternatives, such as educational and rehabilitative measures.

Adamkiewicz v. Poland (2010) case involved the treatment of a minor in police custody. The ECtHR ruled that the lack of access to legal assistance during police questioning violated Article 6. The Court reaffirmed that juveniles should have the right to a lawyer at all stages of criminal proceedings. Finally, *Selçuk v. Turkey* (2023) concerning ill-treatment of a juvenile in detention. The Court ruled that holding minors in poor detention conditions, exposing them to mistreatment, and failing to provide adequate medical care violated Article 3 (prohibition of inhuman treatment).

The ECHR, interpreted through ECtHR case law, has significantly influenced European juvenile justice systems by establishing minimum legal safeguards for minors. The key principles emerging from these legal sources include that juveniles must be treated differently from adults in criminal proceedings, detention should only be used as a last resort, and alternatives should be prioritized; fair trial rights must be adapted to juvenile offenders, ensuring access to legal representation and psychological support; juvenile justice procedures must promote rehabilitation and prevent re-offending and privacy rights must be upheld, ensuring that minors are shielded from undue public scrutiny. These principles have led to significant legal reforms across European states, influencing EU directives such as Directive (EU) 2016/800 on procedural safeguards for children in criminal proceedings. They have also shaped national laws, prompting states to establish separate juvenile courts, specialized detention facilities, and alternative sanctions focused on rehabilitation.

The Council of Europe, through the ECHR and the ECtHR, has been instrumental in developing legal protections for juveniles in criminal justice systems across Europe. The principles established by the Court emphasize rehabilitation over punishment, procedural fairness, and the best interests of the child. Through its case law, the ECtHR has continually refined legal standards, ensuring that minors receive fair, humane, and developmentally appropriate treatment within the justice system. These legal developments remain crucial in shaping European juvenile justice policies and ensuring compliance with international human rights obligations.

2.3. The Charter of Fundamental Rights of the European Union and Juvenile Justice

The Charter of Fundamental Rights of the European Union (CFR) serves as the primary human rights instrument within the EU legal framework, enshrining fundamental rights that apply to all individuals under EU law. While the European Convention on Human Rights (ECHR) provides a broad foundation for human rights protection in Europe, the CFR, adopted in 2000 and legally binding since 2009 (Treaty of Lisbon), represents a more modern, EU-specific human rights document that reflects the evolving principles of justice, equality, and social responsibility within the Union. Among its many provisions, Article 24 of the CFR is particularly significant for juvenile justice, as it explicitly recognizes and reinforces the special

status and rights of children within legal proceedings. This article establishes several key principles aimed at ensuring the protection, well-being, and fair treatment of minors across all EU Member States.

Article 24 of the Charter states that children shall have the right to such protection and care as is necessary for their well-being. Children may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Each of these provisions plays a vital role in shaping juvenile justice policies and legal practices in the EU.

The first principle of Article 24(1) affirms that children must receive the protection and care necessary for their physical, emotional, and psychological well-being. In the context of juvenile justice, this provision ensures that minors who come into conflict with the law are treated with special consideration and safeguards, recognizing their vulnerabilities and developmental needs. EU Member States are required to ensure that criminal justice policies do not subject children to unnecessary harm or distress. When minors are detained, they must receive appropriate education, medical care, psychological support, and opportunities for social reintegration. The use of solitary confinement or excessive punitive measures against juveniles is widely discouraged under this principle. This provision aligns with international standards, such as the United Nations Convention on the Rights of the Child (CRC), reinforcing the notion that juvenile justice must prioritize rehabilitation over punishment.

Article 24(2) recognizes the child's right to express their views freely in all matters concerning them, including criminal justice proceedings. The key element here is that children's opinions must be given due weight according to their age and maturity. Children must be heard in legal proceedings, including police investigations, trials, and sentencing hearings. Courts and legal practitioners must ensure that minors understand the proceedings against them and are provided with opportunities to participate in their defence. The justice system must employ child-sensitive communication methods to facilitate meaningful participation, including the use of specialized juvenile court professionals and legal representation tailored to children's needs. This provision supports the requirement that all juveniles in criminal proceedings must have access to a lawyer (as reinforced by Directive (EU) 2016/800 on procedural safeguards for children).

One of the most fundamental principles in juvenile justice—and in child rights law more broadly—is the best interests of the child. Article 24(3) CFR explicitly states that the best interests of the child must be a primary consideration in all actions taken by public authorities or private institutions. When determining legal actions against a minor, courts must prioritize rehabilitation, social reintegration, and personal development, rather than punitive measures. Detention must always be a measure of last resort and should be used for the shortest possible duration, in line with international and European legal standards. Alternatives to detention, such as restorative justice programs, probation, and diversion schemes, must be considered whenever possible. The privacy of juvenile offenders must be protected, preventing

stigmatization and promoting opportunities for reintegration. Police and judicial authorities handling juvenile cases must receive specialized training to ensure they act in a manner consistent with the child's best interests. This principle is closely aligned with Article 3 of the UN Convention on the Rights of the Child (CRC) and has been reinforced in various ECtHR rulings concerning the treatment of minors in criminal justice systems.

Since its adoption, Article 24 of the CFR has significantly influenced EU laws and policies concerning juvenile justice. The principle of the best interests of the child and child participation in proceedings has been incorporated into several key EU directives and policies, including

- Directive (EU) 2016/800 on Procedural Safeguards for Children in Criminal Proceedings, which establishes minimum standards for fair trial rights of children accused of crimes; guarantees the right to legal representation, parental involvement, and age-appropriate proceedings and stipulates that detention must only be used as a last resort.
- Directive (EU) 2012/13 on the Right to Information in Criminal Proceedings, which ensures that children are provided with age-appropriate, clear, and accessible information about their legal rights and charges against them.
- Directive (EU) 2013/48 on the Right of Access to a Lawyer, which reinforces that children must have access to legal assistance from the earliest stages of legal proceedings.
- The 2021 EU Strategy on the Rights of the Child, which calls for comprehensive legal protections for minors in justice systems, encourages Member States to adopt child-friendly judicial procedures and advocates for restorative justice mechanisms over punitive measures.

Despite the legal protections established by Article 24 CFR, there remain challenges in the practical implementation of these standards across EU Member States. Some of the most pressing concerns include:

- Disparities in juvenile justice policies: Some Member States still rely heavily on punitive approaches rather than rehabilitation-focused measures.
- Access to specialized juvenile courts and legal professionals: Not all Member States have dedicated juvenile courts or well-trained child rights lawyers.
- Overuse of detention: In some EU countries, juvenile offenders continue to be detained unnecessarily, often in poor conditions or alongside adults.
- Lack of enforcement mechanisms: While Article 24 provides a strong legal foundation, enforcement varies across Member States, requiring stronger monitoring and accountability measures.

Article 24 of the Charter of Fundamental Rights of the European Union provides a critical legal foundation for the protection of children's rights in criminal proceedings. By enshrining the right to protection, participation, and the best interests of the child, it ensures that juvenile justice in the EU prioritizes rehabilitation over

punishment. While the EU has made significant progress in aligning its juvenile justice policies with these principles, continued efforts are necessary to harmonize standards across Member States and strengthen enforcement mechanisms. Ultimately, Article 24 CFR serves as a key pillar for shaping a child-friendly justice system within the European Union, ensuring that minors receive fair, dignified, and developmentally appropriate treatment in all legal proceedings.

European Union Directives on Criminal Procedure Rights for Juveniles

The European Union has established a comprehensive legal framework to ensure that juveniles involved in criminal proceedings receive adequate procedural safeguards and fair treatment. This framework is built upon several key directives on criminal procedure rights, which provide minimum legal protections applicable across all EU Member States. These directives aim to harmonize procedural rights, promote child-friendly justice, and ensure that juveniles are treated in a manner that respects their vulnerability, dignity, and right to rehabilitation. Among the most significant directives governing juvenile justice in the EU are:

- Directive (EU) 2016/800 on procedural safeguards for children
- Directive (EU) 2012/13 on the right to information in criminal proceedings
- Directive (EU) 2013/48 on the right of access to a lawyer
- Directive (EU) 2016/1919 on legal aid for suspects and accused persons

Each of these directives plays a crucial role in safeguarding the rights of minors in the criminal justice system, ensuring that they receive fair treatment and that their legal protections align with international human rights standards.

2.4. Directive (EU) 2016/800 on Procedural Safeguards for Children in Criminal Proceedings

One of the most important legal instruments governing juvenile justice in the EU is Directive (EU) 2016/800, which establishes specific procedural safeguards for children who are suspected or accused of crimes. Recognizing that juveniles require greater legal protection than adults, the directive aims to ensure that their rights are upheld throughout all stages of the criminal process, from arrest and questioning to trial and sentencing. The directive defines a child as any person under the age of 18 and applies to all types of criminal proceedings, including minor offenses. Key Protections under the Directive are:

- **Right to Individual Assessment:** Authorities must conduct an individualized assessment of the child's personal circumstances (including psychological, social, and educational factors) to determine the most suitable approach in handling the case.
- **Right to Information:** Children must be provided with age-appropriate information about their rights, the nature of the charges, and potential legal consequences.

- **Mandatory Legal Representation:** Member States must ensure that children have access to legal assistance throughout proceedings, with legal aid available when necessary.
- **Parental or Guardian Involvement:** Parents or legal guardians must be informed and involved in legal proceedings unless this conflicts with the child's best interests.
- **Right to Medical Examination:** Children deprived of liberty must have access to a medical examination, ensuring that their health and well-being are monitored.
- **Protection from Public Exposure:** Judicial authorities must take steps to protect the child's privacy, including restrictions on publicizing their identity.
- **Use of Detention as a Last Resort:** The directive reinforces that detention must only be used when absolutely necessary and for the shortest possible period.

By imposing these safeguards, Directive (EU) 2016/800 ensures that juvenile offenders are treated with greater sensitivity, in line with their age, maturity, and potential for rehabilitation.

2.5. Directive (EU) 2012/13 on the Right to Information in Criminal Proceedings

A fundamental principle of fair trial rights is that individuals accused of a crime must be fully informed about their legal situation and procedural rights. This principle is particularly important for juveniles, who often lack the cognitive capacity and legal awareness to fully understand criminal proceedings. Directive (EU) 2012/13 establishes minimum standards regarding the right to information in criminal proceedings, ensuring that juveniles (and their guardians) receive clear and accessible legal explanations. Key Protections under the Directive are:

- **Right to Be Informed of Rights Upon Arrest:** Juveniles must be informed immediately of their rights upon arrest, including the right to legal representation, the right to remain silent, and the right to contact a parent or guardian.
- **Written Notification (Letter of Rights):** Suspects must receive a written letter of rights explaining their legal protections in simple and understandable language.
- **Right to Be Informed of the Charges:** Juveniles must be clearly informed of the nature and cause of the charges against them in a language they understand.
- **Right to Access Case Materials:** Legal representatives of juveniles must have access to all case materials, allowing them to prepare an effective defence.

This directive is particularly significant for juvenile justice, as many minors may not fully comprehend the legal process or the potential consequences of their

statements or actions. Ensuring that they receive timely, clear, and accessible legal information is crucial in preventing unfair treatment and safeguarding their right to due process.

2.6. Directive (EU) 2013/48 on the Right of Access to a Lawyer

Legal representation is a cornerstone of juvenile justice, ensuring that minors receive competent legal advice throughout the criminal process. Directive (EU) 2013/48 guarantees the right of suspects—including juveniles—to consult with a lawyer before and during any questioning, trial, or detention. Key Protections under the Directive are:

- **Right to Access a Lawyer from the Earliest Stages:** Juveniles must have access to legal counsel immediately after being detained or questioned by authorities.
- **Confidentiality of Lawyer-Client Communication:** Any discussions between the child and their lawyer must be private and protected from interference by authorities.
- **Presence of a Lawyer During Questioning:** A lawyer must be present during police interrogations and other crucial stages of the criminal process.
- **Right to Inform a Third Party (Parental Notification):** Authorities must notify the child's parent or guardian as soon as they are detained.

This directive is essential for ensuring that minors are not coerced into self-incrimination or subjected to unfair questioning practices. The presence of a lawyer ensures that the child's legal rights are protected, and that the proceedings are conducted in a fair and transparent manner.

2.7. Directive (EU) 2016/1919 on Legal Aid

Access to legal assistance should not be dependent on financial resources, particularly for juvenile offenders, who lack the financial means to hire a lawyer. Directive (EU) 2016/1919 establishes common minimum standards for legal aid across the EU, ensuring that juveniles receive free legal representation when necessary. Key Protections under the Directive:

- **Guaranteed Access to Legal Aid for Vulnerable Groups:** Minors are considered a particularly vulnerable category and should automatically qualify for state-funded legal assistance.
- **Prompt Legal Aid Decision-Making:** Authorities must ensure that legal aid is provided without unnecessary delay, allowing children to consult a lawyer as soon as possible.
- **Transparent and Fair Legal Aid Procedures:** The directive requires that legal aid systems operate fairly, efficiently, and independently, preventing unnecessary bureaucratic obstacles.

- This directive ensures that juveniles, regardless of their socio-economic background, have access to a lawyer throughout criminal proceedings, reinforcing the principles of fair trial and access to justice.

The EU Directives on Criminal Procedure Rights create a robust legal framework that safeguards the rights of juveniles in criminal proceedings. By establishing clear legal protections—ranging from procedural safeguards to access to legal representation and legal aid—these directives ensure that juvenile justice in the EU prioritizes fairness, rehabilitation, and child-sensitive legal procedures.

These directives align EU legal standards with international human rights obligations, particularly those set forth by the United Nations Convention on the Rights of the Child (CRC) and the European Court of Human Rights (ECtHR). Moving forward, ensuring the effective implementation and enforcement of these directives remains a critical challenge for the European legal system.

Procedural Safeguards for Juveniles in the European Union

Juvenile justice systems must balance accountability and rehabilitation, ensuring that minors accused of crimes are treated fairly while receiving the necessary protection and support. The European Union (EU) has established a comprehensive set of procedural safeguards for juveniles to guarantee their rights and dignity in criminal proceedings. These safeguards are primarily drawn from Article 6 of the European Convention on Human Rights (ECHR), Article 47 of the Charter of Fundamental Rights of the EU (CFR), and various EU directives on procedural rights. The main procedural protections afforded to juveniles in the EU include:

- Right to a Fair Trial (Article 6 ECHR, Article 47 CFR)
- Right to Legal Representation and Access to Information
- Role of Parents or Guardians in Proceedings
- Confidentiality and Privacy Rights

Each of these rights ensures that juvenile defendants are treated fairly, that their developmental needs are taken into account, and that their best interests remain a central concern throughout legal proceedings.

2.8. Right to a Fair Trial (Article 6 ECHR, Article 47 CFR)

The right to a fair trial is one of the most fundamental principles in juvenile justice and is enshrined in both European human rights law and EU law. Article 6 of the European Convention on Human Rights (ECHR) guarantees that all individuals, including juveniles, are entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 47 of the Charter of Fundamental Rights of the EU (CFR) reinforces this protection within the EU legal framework, ensuring that individuals receive a fair hearing before a tribunal, access to legal representation, and effective remedies in case of rights violations. In the context of juvenile justice, fair trial rights include:

- Right to be informed of charges in a child-friendly manner: Juveniles must be given information about their legal situation in language they understand, ensuring they are fully aware of the charges and their rights.
- Right to be heard and participate effectively: The justice system must ensure that juveniles can meaningfully engage in their defence, taking into account their age and cognitive abilities.
- Right to legal assistance (Directive (EU) 2016/800): Children cannot waive their right to a lawyer, unlike adults in certain circumstances, due to their vulnerability.
- Use of specialized juvenile courts and procedures: The ECtHR has emphasized that juvenile trials should be adapted to the needs of minors, including the presence of trained professionals.

The ECtHR case of *T. v. The United Kingdom* (1999) ruled that juveniles must be provided with a trial process that takes into account their level of maturity and psychological development, ensuring they can effectively participate in their own defence.

2.9. Right to Legal Representation and Access to Information

Juveniles cannot be expected to navigate legal proceedings on their own. Recognizing their particular vulnerability, the EU has strengthened their right to legal representation and access to information. Directive (EU) 2013/48 on the Right of Access to a Lawyer ensures that all juveniles have the mandatory right to a lawyer from the earliest stages of proceedings, including police questioning and court trials. Directive (EU) 2012/13 on the Right to Information in Criminal Proceedings establishes that juveniles must be provided with written and oral explanations of their rights in clear, age-appropriate language. Directive (EU) 2016/1919 on Legal Aid guarantees that financial status cannot be a barrier to legal representation, ensuring state-funded legal aid for minors who cannot afford a lawyer.

Juveniles lack the legal awareness and experience necessary to defend themselves adequately. Without proper legal assistance, minors are at significant risk of unfair treatment. Access to legal representation ensures that:

- Minors are not pressured into confessions or coerced during interrogations.
- They fully understand the consequences of their legal situation.
- Their legal rights, including non-custodial measures, are properly advocated for in court.

The ECtHR ruling in *Adamkiewicz v. Poland* (2010) highlighted that denying juveniles access to legal assistance violates their fair trial rights and places them in an extremely disadvantaged position.

2.10. Role of Parents or Guardians in Proceedings

The involvement of parents or guardians is a fundamental principle of juvenile justice in the EU. The rationale behind this safeguard is that minors require emotional

and psychological support when facing criminal proceedings. Directive (EU) 2016/800 establishes that juveniles must have the right to be accompanied by their parent(s) or guardian(s) at all key stages of the criminal process. Parents must be promptly informed when a child is arrested or charged with a crime. Judicial authorities must consider the role of parents in supporting the child's rehabilitation. While the role of parents in juvenile proceedings is essential, there are exceptions in cases where parental involvement may not be in the child's best interest, such as:

1. When the parents are involved in the crime (e.g., cases of abuse, neglect, or coercion into criminal activity).
2. When the child objects to parental involvement, particularly in cases where parental presence may cause additional distress.

In such cases, an independent guardian or legal representative must be appointed to protect the minor's interests.

2.11. Confidentiality and Privacy Rights

Juveniles have a heightened right to privacy in criminal proceedings due to their young age and the potential long-term consequences of exposure. Public disclosure of juvenile offenses can lead to stigmatization, social exclusion, and difficulties in rehabilitation. Article 8 of the ECHR (Right to Private and Family Life) and Article 24 of the CFR affirm that minors must be protected from unnecessary exposure in criminal proceedings. Directive (EU) 2016/800 explicitly states that juvenile trials should not be conducted in public and that authorities must ensure the confidentiality of juvenile records. ECtHR case law has consistently ruled that exposing a child's identity in criminal proceedings violates their right to privacy and hinders their chances of reintegration into society. We can say that key privacy protections for juveniles in the EU are:

- **Sealing of Juvenile Criminal Records:** Many EU Member States restrict access to juvenile criminal records and allow for record expungement after a certain period.
- **Closed Court Hearings:** Juvenile trials are often held in specialized courts that limit public access to protect the child's identity.
- **Prohibition on Media Disclosure:** Media outlets are restricted from publishing identifying details about juvenile offenders.

The ECtHR case of *B. v. The United Kingdom* (2001) found that public exposure of a juvenile suspect's identity violated their privacy rights, reinforcing the need for strict confidentiality in juvenile justice proceedings.

Procedural safeguards for juveniles in the EU ensure that minors accused of crimes are treated fairly, humanely, and with an emphasis on rehabilitation rather than punishment. Through strong legal protections—including the right to a fair trial, legal representation, parental involvement, and privacy safeguards—the EU legal framework prioritizes the best interests of the child at all stages of criminal proceedings. These safeguards align with international human rights standards, ensuring that juvenile offenders are given a genuine opportunity for reintegration into

society. Moving forward, the consistent implementation and enforcement of these procedural rights across all EU Member States remains a key priority in the evolution of child-friendly justice systems.

3. REHABILITATION AND REINTEGRATION OF JUVENILE OFFENDERS IN THE EUROPEAN UNION

The rehabilitation and reintegration of juvenile offenders are central pillars of the European Union's approach to juvenile justice. Unlike punitive criminal justice models that focus primarily on retribution, the EU emphasizes non-punitive measures that aim to address the root causes of juvenile delinquency, prevent recidivism, and support the reintegration of young offenders into society. This approach is grounded in international human rights standards, including the United Nations Convention on the Rights of the Child (CRC) and the Council of Europe's European Rules for Juvenile Offenders Subject to Sanctions or Measures (2008). The EU promotes rehabilitative justice through policies that encourage non-punitive measures over incarceration; alternatives to detention, including diversion programs, restorative justice, and educational initiatives and comparative best practices among selected EU member states. These strategies ensure that juveniles in conflict with the law are given opportunities for personal growth, education, and community reintegration, rather than being subjected to harsh penal sanctions that may hinder their future prospects.

3.1. EU Emphasis on Non-Punitive Measures

The EU's legal framework for juvenile justice is based on the principle that detention should only be used as a last resort and for the shortest possible duration. This principle is reinforced by:

1. Directive (EU) 2016/800 on Procedural Safeguards for Children in criminal proceedings, which mandates that rehabilitative and educational measures should take precedence over punitive sanctions.
2. The Charter of Fundamental Rights of the European Union (Article 24), which recognizes that children have the right to protection and care necessary for their well-being.
3. The Council of Europe's Recommendations on Juvenile Justice (CM/Rec(2008)11), which advocate for policies that focus on reintegrating juvenile offenders into society rather than isolating them through detention.

The philosophy behind this non-punitive approach is that juvenile crime is often linked to social, economic, psychological, or familial factors. Instead of penalizing young offenders in a manner that increases their risk of reoffending, the EU encourages rehabilitation-focused interventions that provide juveniles with life skills, education, and psychological support.

3.2. Alternatives to Detention: Diversion, Restorative Justice, and Educational Programs

Recognizing the negative effects of detention on young people—including increased risk of reoffending, psychological harm, and stigmatization—the EU and its Member States have implemented a range of alternative measures that emphasize rehabilitation and social reintegration.

Diversion refers to redirecting juvenile offenders away from formal judicial proceedings and into community-based programs that address the causes of their behaviour. Its objective is to provide minors with a structured intervention program rather than subjecting them to criminal prosecution and possible detention. Between the key features are referral to counselling, vocational training, or mentorship programs, engagement in community service or reparative actions and close monitoring and supervision by youth workers or probation officers. Studies show that juveniles who undergo diversion programs are significantly less likely to reoffend than those who are subjected to traditional court procedures and detention.

Restorative justice is an alternative approach to juvenile justice that focuses on repairing harm rather than imposing punishment. It brings together the juvenile offender, the victim (if willing) and community members or mediators. This approach seeks to help the offender understand the impact of their actions, take responsibility, and make amends. In the EU exists numerous examples of restorative justice practices. For example, in victim-offender mediation, the offender and victim engage in a mediated dialogue to discuss the offense and agree on restitution. In family group conferencing the offender meets with their family and justice representatives to create a rehabilitation plan. In community reconciliation programs the offender engages in activities that contribute positively to their community, such as volunteering or restitution projects.

Education plays a crucial role in breaking the cycle of juvenile crime. Many young offenders come from disadvantaged backgrounds with low educational attainment, which increases their risk of recidivism. Education-focused alternatives to detention include:

- Placement in specialized educational institutions where juveniles receive formal schooling alongside behavioural therapy.
- Vocational training programs that provide job skills and apprenticeships to increase employment prospects after release.
- Psychosocial rehabilitation centres that offer mental health counselling and support services.

Programs that combine education with social support have proven to be highly effective in reducing reoffending rates among juvenile offenders.

3.3. Comparative Analysis of Rehabilitation Models in Selected EU Member States

EU Member States have different approaches to juvenile rehabilitation, with some countries standing out for their progressive and effective models. Germany places a strong emphasis on education and rehabilitation in its juvenile justice system. Juvenile offenders are rarely imprisoned, with courts preferring probation, community service, or educational measures. Specialized youth courts and judges are trained to issue rehabilitative, rather than punitive, sentences. Detention, when used, takes place in youth-specific institutions where education and skill-building are prioritized.

The Netherlands combines rehabilitation with elements of accountability. It operates youth detention centres that focus on reintegration, where juveniles attend school and receive therapy while serving their sentence. The use of restorative justice practices, such as victim-offender mediation, is widespread. Early intervention programs aim to divert youth away from crime before they enter the formal justice system.

Finland takes a social welfare approach to juvenile justice. Juvenile detention is almost non-existent, and most young offenders are placed under supervision or directed to rehabilitation programs. The child protection system works closely with juvenile courts, ensuring that offenders receive mental health treatment, educational support, and social services. A strong focus is placed on family involvement and reintegration programs.

France has implemented a hybrid approach that blends elements of social intervention and judicial measures. Juvenile cases are handled by specialized juvenile courts, which emphasize educational measures. Young offenders are often placed in social rehabilitation centres rather than detention facilities. Probation officers and youth workers play an active role in supporting the reintegration of juvenile offenders.

The European Union's juvenile justice policy prioritizes rehabilitation and reintegration over punitive measures, recognizing that young offenders have a higher potential for reform than adults. Through diversion programs, restorative justice, and education-based rehabilitation initiatives, EU countries are working to reduce recidivism and provide young offenders with opportunities for a better future. While implementation varies across Member States, there is a clear trend towards minimizing the use of detention, prioritizing child-centred justice approaches, and investing in long-term social reintegration strategies. Moving forward, ensuring harmonization of best practices across the EU will be essential in enhancing the effectiveness of juvenile rehabilitation efforts and fostering a justice system that truly serves the best interests of the child.

Despite the progressive framework established by the European Union (EU) to protect the rights of juveniles in criminal proceedings, significant challenges remain in its implementation across Member States. While the EU has set minimum legal standards, ensuring their uniform application across different jurisdictions has

proven to be complex and inconsistent. The effectiveness of juvenile justice policies depends not only on legislative alignment but also on practical implementation, resource allocation, and judicial training. Three major challenges hinder the full realization of EU juvenile justice principles:

- Discrepancies in implementation across Member States
- Lack of harmonization in alternative sanctions
- Need for enhanced training for legal practitioners

These issues contribute to inequalities in juvenile justice outcomes, creating disparities in the treatment of minors based on their country of prosecution. Addressing these challenges is crucial for achieving a fair, effective, and child-centred European justice system. While EU directives provide a strong legal foundation for juvenile justice, their interpretation and application vary significantly among Member States. The EU legal framework relies on directives, which require national transposition rather than direct application, allowing states some discretion in their implementation. As a result, juvenile justice systems differ widely in:

- Legal protections for minors (e.g., access to legal representation, procedural safeguards).
- Age of criminal responsibility (which varies from 10 years in England to 15 or 16 in other EU states).
- The extent to which non-punitive measures are used instead of incarceration.

For instance, Germany and the Netherlands prioritize education and rehabilitation, using detention only as a last resort. France and Italy have specialized juvenile courts with rehabilitative measures but still impose punitive sentences for serious offenses. Some Eastern European countries continue to rely on punitive approaches, where juvenile offenders are more frequently subjected to detention and traditional sentencing rather than rehabilitative alternatives. This uneven application of EU standards creates a geographical disparity in juvenile justice outcomes, meaning that the legal rights and protections available to a minor depend on where they are prosecuted. This inconsistency weakens the EU's commitment to a harmonized child-centred justice system. Consequently, key issues contributing to discrepancies are variations in national laws and how EU directives are transposed, differences in judicial attitudes toward juvenile offenders, resource limitations in some jurisdictions, affecting the availability of specialized courts and non-custodial measures and lack of effective monitoring mechanisms to ensure compliance with EU directives. Without stronger EU-wide enforcement and oversight, Member States will continue to apply juvenile justice protections unevenly, leading to inequities in how minors experience the legal system.

One of the core principles of EU juvenile justice is that detention should be used only as a last resort. However, the use of non-custodial sanctions, such as restorative justice, probation, and educational programs, remains highly inconsistent across Member States. While some countries have well-established alternative sanction models, others still rely heavily on detention, even for non-violent offenses. Scandinavian countries (e.g., Finland, Sweden, Norway) have highly developed

restorative justice programs, focusing on diversion and community-based rehabilitation. Western European nations (e.g., Germany, the Netherlands, Belgium) offer structured probation programs, educational sentencing, and victim-offender mediation. Southern and Eastern European countries (e.g., Bulgaria, Romania, Greece, Poland) continue to favour traditional punitive measures, with limited application of restorative justice or rehabilitation-focused sanctions.

Juveniles in some countries face harsher penalties than those in other EU states for similar offenses. The effectiveness of rehabilitation efforts varies, as not all countries provide adequate educational or psychosocial support. Juveniles transferred between jurisdictions may experience vastly different legal treatment, leading to legal uncertainty and potential human rights violations.

For the EU to fully implement a child-centred justice system, Member States must expand and harmonize their use of alternative sanctions, ensuring that restorative justice programs and non-custodial measures are available throughout the Union.

A critical weakness in the implementation of EU juvenile justice protections is the lack of specialized training for legal practitioners. Judges, prosecutors, defence lawyers, and law enforcement officials often lack the necessary expertise to handle cases involving minors in a child-sensitive manner. Accordingly, there are challenges in current legal training:

- Insufficient specialization: Many judges and prosecutors do not receive adequate training on child psychology, juvenile rehabilitation, or restorative justice.
- Police interactions with minors: Many minors face harsh or intimidating questioning by law enforcement, violating child-friendly justice principles.
- Lack of awareness of procedural safeguards: Some lawyers and judges fail to ensure that juvenile offenders receive age-appropriate legal representation and procedural rights.

Variability in training programs across Member States: Some countries offer extensive training for juvenile justice professionals, while others provide only general legal education without a focus on minors. France and Germany have established specialized juvenile courts with judges and prosecutors trained in child development and rehabilitation. Italy and Spain have juvenile-focused legal training programs but still face challenges in ensuring uniform application of child-friendly justice. Some Eastern European states provide little to no specialization in juvenile justice, leading to inconsistent application of legal protections. It is necessary to improve legal training, for example:

- Mandatory training for all legal practitioners handling juvenile cases, focusing on child development, procedural safeguards, and rehabilitative justice.
- Specialized juvenile justice courts and legal professionals, ensuring that only judges and lawyers with appropriate expertise handle juvenile cases.
- EU-wide guidelines for training programs, ensuring a harmonized approach across Member States.

The European Commission and Council of Europe have emphasized the need for greater investment in juvenile justice training. Strengthening these training programs would significantly improve the quality of legal representation and judicial decision-making in juvenile cases. While the European Union has made significant progress in establishing a fair and rehabilitative juvenile justice system, challenges remain in its implementation. The discrepancies in legal protections across Member States, the lack of harmonization in alternative sanctions, and the need for enhanced legal training hinder the EU's ability to ensure equal and effective justice for all minors. Key areas for reform are:

- Stronger EU monitoring mechanisms to ensure consistent application of procedural safeguards across all Member States.
- Increased investment in non-custodial alternatives, ensuring that restorative justice and diversion programs are widely available.
- Expanded training programs for legal practitioners, focusing on child-sensitive legal approaches and rehabilitative justice.

Addressing these challenges is crucial for creating a truly harmonized and effective juvenile justice system that upholds the best interests of the child, prevents recidivism, and promotes long-term social reintegration across the EU.

4. GAPS IN SERBIA'S JUVENILE JUSTICE SYSTEM: A COMPARATIVE ANALYSIS WITH EU AND INTERNATIONAL STANDARDS

The Serbian Law on Juvenile Offenders provides a separate legal framework for juvenile justice, which aligns with many international norms. However, certain provisions remain insufficiently harmonized with EU and international standards, especially regarding procedural safeguards, detention conditions, and victim protection. The Serbian Law aligns with international and EU standards in several key areas:

- **Specialized Approach to Juvenile Justice:** The law recognizes juveniles as a distinct category with special legal protections (Article 1). It provides for diversion measures (educational orders) and alternative sanctions (Articles 5–8). Minimum Age of Criminal Responsibility (MACR) is 14. The law sets 14 years as the minimum age of criminal responsibility (Article 2), in line with UN CRC and CoE recommendations.
- **Priority on Rehabilitation and Reintegration.** The law emphasizes education, social integration, and rehabilitation (Articles 10–12, 19–22). It limits imprisonment for juveniles to exceptional cases (Articles 28–32). These provisions are consistent with the UN Beijing Rules and CoE standards.
- **Child-Friendly Procedural Safeguards.** The law requires that juvenile offenders must have a defence lawyer from the first interrogation (Article 49), aligning with Directive (EU) 2016/800. The court procedure excludes

the public (Article 75), protecting the privacy of minors, in line with Beijing Rules and EU safeguards.

- Use of Restorative Justice Mechanisms. The law allows for mediation, reconciliation, and compensation between the juvenile and the victim (Article 7), reflecting EU Directive 2012/29 on victims' rights.

The Serbian Law on Juvenile Offenders and Criminal Protection of Juveniles demonstrates a commitment to providing a specialized framework for juvenile justice. However, a closer examination reveals several key areas where it falls short of international and EU standards, particularly in terms of procedural safeguards, detention practices, and victim protection.

One of the most significant gaps in the Serbian legal framework is the lack of a mandatory individual assessment for each juvenile offender. Directive (EU) 2016/800 emphasizes the importance of conducting a comprehensive evaluation of a juvenile's personal circumstances, background, and developmental needs before making procedural decisions. While Serbian law partially recognizes this need in Articles 64–66, it does not make such assessments mandatory, leaving room for inconsistencies in how cases are handled.

Another area of concern is the limited provisions for legal assistance. While the law mandates that juveniles must have legal representation, it does not ensure that they receive specialized legal aid beyond court-appointed lawyers. Directive (EU) 2016/800, along with ECtHR case law, underscores the necessity of juvenile-specific legal assistance, recognizing that young offenders require not only legal representation but also guidance tailored to their age and cognitive development. Serbia's failure to explicitly provide such guarantees means that juveniles may not always receive the most appropriate legal support.

Additionally, Serbia's use of detention for juveniles remains excessive and lacks proportionality. The law permits pre-trial detention for up to six months (Article 67), a period that significantly exceeds the standards set by EU and Council of Europe (CoE) guidelines, which emphasize that detention should only be used as a last resort and for the shortest possible period. This approach also conflicts with ECtHR case law, particularly the ruling in *Bouamar v. Belgium* (1988), which found that extended detention of juveniles without clear justification violates human rights protections. Moreover, the law does not clearly define alternatives to detention for older juveniles (ages 16–18), raising concerns about Serbia's compliance with the UN Beijing Rules and EU procedural safeguards.

The lack of clear limitations on solitary confinement is another major shortcoming. While Serbian law prohibits isolation as a disciplinary measure (Article 91), it does not explicitly ban solitary confinement. UN Havana Rules and CoE guidelines strongly oppose the use of solitary confinement for juveniles, recognizing its severe psychological effects. The absence of an explicit prohibition in Serbian legislation creates a legal loophole that could enable its misuse.

Furthermore, the law's provisions on child victims' rights remain inadequate. While some protections exist, the law fails to ensure mandatory psychological support for victims of violent crimes, which is required under Directive (EU)

2012/29. Similarly, it lacks specialized interview procedures for child victims of sexual violence, as mandated by the Lanzarote Convention. The absence of these safeguards increases the risk of re-traumatization, an issue consistently highlighted by the ECtHR, including in the case of *Z. and Others v. UK* (2001).

Finally, the law does not fully comply with Council of Europe guidelines on child-friendly justice, particularly in the training of professionals. Both Directive (EU) 2016/800 and CoE recommendations emphasize that judges, prosecutors, police officers, and other officials involved in juvenile justice must undergo specialized training in child psychology and juvenile justice. Serbian law does not mandate such training, which can lead to inconsistent application of juvenile justice principles and a lack of sensitivity in dealing with young offenders.

In sum, while Serbia has made important strides in juvenile justice reform, further harmonization with EU and international standards is necessary. Addressing these deficiencies—particularly in legal representation, detention practices, victim protections, and professional training—will be crucial for ensuring a juvenile justice system that is fully aligned with human rights and best practices in Europe.

5. CONCLUSION AND RECOMMENDATIONS

The juvenile justice system in the European Union (EU) is built upon a framework that prioritizes rehabilitation, procedural fairness, and the best interests of the child. Through key legal instruments such as the Charter of Fundamental Rights of the EU (Article 24), the European Convention on Human Rights (ECHR, Article 6), and a range of EU directives on procedural safeguards, the EU has established minimum legal protections for juveniles involved in criminal proceedings. One of the defining principles of the EU's juvenile justice approach is the emphasis on non-punitive measures. Instead of focusing on retribution and detention, the EU encourages alternatives such as diversion programs, restorative justice, and educational interventions that foster social reintegration. Several EU Member States, including Germany, the Netherlands, and Finland, have demonstrated successful rehabilitative models, showcasing the effectiveness of restorative approaches in reducing recidivism among juvenile offenders. However, despite this progressive legal framework, significant challenges and inconsistencies remain in its implementation across Member States.

While EU directives set common standards, their interpretation and enforcement vary widely among Member States. Juveniles in some EU countries face harsher sentencing, weaker procedural safeguards, or limited access to alternative sanctions compared to their counterparts in other states. Then, while some EU countries emphasize rehabilitation through education, therapy, and community-based programs, others still rely heavily on detention. Restorative justice programs, probation systems, and diversion mechanisms are not equally available across Member States, leading to unequal treatment of juvenile offenders. Many judges, prosecutors, and defence attorneys lack specialized training in juvenile justice, leading to inconsistent application of procedural safeguards. Police interactions with

juveniles are not always conducted in a child-friendly manner, resulting in potential rights violations. To address these challenges, greater harmonization and enforcement mechanisms are needed to ensure that all EU juveniles receive equal protection under the law and are treated in accordance with their developmental needs.

To strengthen the effectiveness and fairness of juvenile justice across the EU, the following recommendations should be considered:

1. Establish stronger EU monitoring and compliance mechanisms. The European Commission and EU agencies should implement regular monitoring and reporting on how Member States apply juvenile justice directives. The EU Fundamental Rights Agency (FRA) should conduct country assessments and issue compliance recommendations to ensure uniform implementation. A centralized EU database on juvenile justice practices should be created to track disparities and best practices across jurisdictions.
2. Expand and harmonize the use of alternative sanctions. The EU should mandate that all Member States adopt a minimum set of alternative sanctions, including: diversion programs (e.g., counselling, community service, behavioural therapy), restorative justice mechanisms (e.g., victim-offender mediation, family group conferencing) and educational and vocational training initiatives tailored to juvenile offenders. EU funding should be allocated to support the expansion of restorative justice programs in countries where they are underdeveloped.
3. Strengthen legal training for juvenile justice practitioners. Mandatory specialization in juvenile justice should be introduced for judges, prosecutors, defence lawyers, and law enforcement officers. The EU Judicial Training Network (EJTN) should develop a standardized training curriculum focused on child psychology and development, age-appropriate legal procedures and rehabilitation-focused sentencing strategies. Police officers handling juvenile cases should receive training on child-friendly investigative techniques, ensuring that minors are questioned in an appropriate and non-coercive manner.
4. Promote a more uniform approach to juvenile sentencing. The EU should encourage Member States to align sentencing policies, ensuring that detention is only used as a last resort. Judicial guidelines should be issued at the EU level to encourage proportionality in juvenile sentencing, ensuring that minors receive individualized, developmentally appropriate sanctions.
5. Strengthen procedural rights for juveniles in detention. Member States must ensure that juveniles in detention have access to legal representation at all times, age-appropriate detention conditions, including educational opportunities and psychological support and protection from prolonged pre-trial detention, with strict time limits on how long a minor can be held before trial.

6. Foster greater cross-border cooperation on juvenile justice. EU Member States should exchange best practices through judicial cooperation programs focusing on successful rehabilitation models, transnational research initiatives to evaluate the effectiveness of juvenile justice interventions and cross-border training workshops for juvenile justice professionals.

The future of EU juvenile justice must be centred on harmonization, rehabilitation, and legal protection. While the EU has made significant strides in ensuring procedural safeguards for juveniles, the inconsistent application of these rights across Member States remains a major challenge. By strengthening compliance mechanisms, expanding restorative justice programs, improving training for legal practitioners, and ensuring proportional sentencing, the EU can build a more unified and effective juvenile justice system. The goal should be to ensure that all minors in the EU—regardless of their country of prosecution—receive equal protection, access to rehabilitative justice, and the opportunity to reintegrate successfully into society. By continuing to invest in child-centred legal frameworks, the EU will reinforce its commitment to fairness, human dignity, and the best interests of the child in all criminal justice proceedings.

The Serbian Law on Juvenile Offenders represents a strong foundation but requires further harmonization with EU and international norms, particularly in legal safeguards, proportionality of detention, and victim protection. By implementing these reforms, Serbia can align fully with EU accession requirements and international human rights standards.

To align fully with EU and international standards, Serbia should consider:

- Mandating Individual Assessments for All Juvenile Cases – Amend the law to require comprehensive psychosocial assessments before any procedural decision (Directive (EU) 2016/800).
- Limiting Pre-Trial Detention to Shorter Durations – Reduce the maximum detention period for juveniles to 3 months, in line with CoE and ECtHR case law.
- Strengthening Legal Assistance Guarantees – Establish specialized legal aid programs for juveniles beyond court-appointed lawyers.
- Enhancing Victim Protection Mechanisms – Introduce mandatory psychological and social support for child victims (Directive (EU) 2012/29).
- Ensuring Specialized Training for Judges and Prosecutors – Mandate specialized juvenile justice training for all judges, prosecutors, and police officers.
- Explicitly Prohibiting Solitary Confinement for Juveniles – Include a clear ban on solitary confinement as a disciplinary measure in juvenile detention facilities.

References

- Bejatović, S. (2024). Vaspitni nalozi kao vaninstitucionalne krivičnopravne mere reakcije na maloletničku delinkvenciju (Kriminalno-politički razlozi normiranja, norma i iskustva primene u Republici Srbiji). *Zbornik radova: Djeca i maloljetnici kao učinioci i žrtve krivičnih djela – Zakonodavni i institucionalni odgovor*, 7-31
- Bugarski, T., & Samardžić, S. (2012). Maloletnici u krivičnom postupku. *Zbornik radova Pravnog fakulteta u Novom Sadu*, 1/2012.
- Castañón, J. M. (2013). El principio del «interés del menor» en derecho penal: una visión crítica. *Revista de Derecho Penal y Criminología*, 3, 155-186.
- Cerović, I., & Brašić, K. (2016). Iskustva pilotiranja vaspitnih naloga kao diverzionih mehanizama u Srbiji u kontekstu međunarodnog prava. In S. Bejatović, *Evropske integracije i kazneno zakonodavstvo (Poglavlje 23 - norma, praksa i mere harmonizacije)* (pp. 610-624). Zlatibor: Srpsko udruženje za krivičnopravnu teoriju i praksu.
- Douglas, G. (2004). *An Introduction to Family Law*. Oxford: Oxford University Press.
- Đokić, I. (2024). Kriminalnopolitička prihvatljivost snižavanja starosne granice krivične odgovornosti. *Zbornik radova: Djeca i maloljetnici kao učinioci i žrtve krivičnih djela – Zakonodavni i institucionalni odgovor*, 122-138.
- Fattah, E. (2001). Victimization the Helpless: Assaulting Children as a Corrective Measure. In E. Fattah, & S. Parmentier, *Victim Policies and Criminal Justice on the Road to Restorative Justice* (pp. 15-34). Leuven: Leuven University Press.
- Jančić, O. (2009). *Porodično pravo*. Novi Sad: Pravni fakultet u Novom Sadu.
- Jeličić, M. (2024). Prekršajna odgovornost roditelja za prekršaj deteta i maloletnika iz Zakona o bezbednosti saobraćaja na putevima u Republici Srbiji. *Zbornik radova: Djeca i maloljetnici kao učinioci i žrtve krivičnih djela – Zakonodavni i institucionalni odgovor*, 395-410
- Jensen, E. L., & Jepsen, J. (2006). Introduction. In E. L. Jensen, & J. Jepsen, *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems* (pp. 1-12). Oxford and Portland: Hart Publishing.
- Kochanczyk, R., & Stachelek, D. (2018). Prevention of Juvenile Delinquency as one of the Tasks of the Polish Police. *Revija za kriminologiju i krivično pravo*, 56(3), 117-130.
- Komar, M. J. (2008). *Rasprava o principima porodičnog prava*. Beograd: Pravni fakultet Univerziteta u Beogradu.
- López Martín, E. (2001). Ejecución de las medidas no privativas de libertad. In *Justicia de menores e intervención socioeducativa*. Murcia.
- Luković, A. (2018). Prevencija maloletničke delikvencije. In S. Bejatović, *Organizacija pravosuđa i efikasnost sudske zaštite (Evropski standardi i stanje u Srbiji) - krivičnopravni aspekt* (pp. 534-543). Zlatibor: Srpsko udruženje za krivičnopravnu teoriju i praksu.
- Millar, H. A., & Dandurand, Y. (2018). The Best Interests of the Child and the Sentencing of Offenders with Parental Responsibilities. *Criminal Law Forum*, 29(2), 227-297.
- Nikolić-Ristanović, V. (2012). Kriminalitet maloletnika ili maloletnička delinkvencija: pojmovno određenje i njegov značaj. *Revija za kriminologiju i krivično pravo*, 50(1-2), 183-188.
- Palacio Sánchez Izquierdo, J. (2000). El principio del superior interés del menor. *Surgam*, 466-467.
- Perić, O. (2006). *Komentar Zakona o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica*. Beograd: Službeni glasnik.
- Platt, A. (1977). *The Child Savers: The Invention of Delinquency*. Chicago: University of Chicago Press.
- Plečić, M., & Radić, I. (2019). Pre-Trial Detention of Children: European Standards and Croatian Law. *EU and Comparative Law Issues and Challenges Series*, 3, 521-549.
- Radić, I. (2018). Right of the Child to Information according to the Directive 2016/800/EU. *EU and Comparative Law Issues and Challenges Series*, 2 (2), 468-491.
- Selman, Dž., Mitrović, Lj., Uletilović, D., Mirkonj, N., & Šain, D. (2010). *Postupanje sa decom i maloletnicima u krivičnom postupku*. Banja Luka: Ministarstvo pravde Republike Srpske.
- Silval, K. (2006). Juvenile Justice in Nepal: An Overview. In E. L. Jensen, & J. Jepsen, *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems* (pp. 263-280). Oxford and Portland: Hart Publishing.

- Soković, S. (2013). Maloletnički kriminalitet i recidivizam: pravilo i/ili izuzetak? *Revija za kriminologiju i krivično pravo*, 51(3), 23-37.
- Soković, S., & Bejatović, S. (2009). *Maloletničko krivično pravo*. Kragujevac: Pravni fakultet Univerziteta u Kragujevcu.
- Soković, S., & Turanjanin, V. (2024). *Maloletničko krivično pravo*. Kragujevac: Pravni fakultet Univerziteta u Kragujevcu.
- Stanila, L., & Stan, A. (2018). Protection of Minor's Rights in the Romanian Criminal Trial. *Journal of Eastern-European Criminal Law*, 1, 31-38.
- Stapleton, A. (2006). Regional Co-operation and the Spread of New Ideas and Practices. In E. L. Jensen, & J. Jepsen, *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems* (pp. 51-64). Oxford and Portland: Hart Publishing.
- Turanjanin, V., & Ivanović, A. (2021). *EU integracije i implementacija ljudskih prava nove generacije u pravni sistem Republike Srpske*. Istočno Novo Sarajevo.
- Turanjanin, V. (2024). Obavezna odbrana u krivičnom postupku prema maloletnicima i prisustvo branioca u policijskoj stanici. *Zbornik radova: Djeca i maloljetnici kao učinioci i žrtve krivičnih djela – Zakonodavni i institucionalni odgovor*, 232-250
- Valcu, E. (2016). Procedural Rights of the Suspects and of the Accused during the Criminal Procedures. *Journal of Law and Administrative Sciences*, 6, 77-93.
- Vocht, D. D., Panzavolta, M., Vanderhallen, M., & Oosterhout, M. V. (2014). Procedural Safeguards for Juvenile Suspects in Interrogations. *New Journal of European Criminal Law*, 5 (4), 480-506.
- Ćorić, D. (2019). O sličnostima i razlikama definicija pojmova "maloletno lice" i "dete" u domaćem pozitivnom pravu. *Revija za kriminologiju i krivično pravo*, 57(1), 29-43.
- Ćorović, E. (2012). Sporni oblici disciplinskog kažnjavanja dece: da li je reč o osnovu isključenja protivpravnosti krivičnog dela ili nasilju nad decom. *Crimen*, 3(2), 211-221.
- Ćorović, E. (2013). Neke pravnoteorijske dileme u vezi sa kažnjavanjem maloletnika. *Revija za kriminologiju i krivično pravo*, 51(1), 49-62.
- Ćorović, E. (2015). *Sistem krivičnih sankcija Republike Srbije*. Novi Pazar: Državni univerzitet u Novom Pazaru.
- Škulić, M. (2011). *Maloletničko krivično pravo*. Beograd: Pravni fakultet Univerziteta u Beogradu.
- Škulić, M., & Stevanović, I. (2024). Obavezna odbrana u krivičnom postupku prema maloletnicima i prisustvo branioca u policijskoj stanici. *Zbornik radova: Djeca i maloljetnici kao učinioci i žrtve krivičnih djela – Zakonodavni i institucionalni odgovor*, 232-250

ECtHR:

- Adamkiewicz v. Poland, App. No. 54729/00, 2 March 2010, European Court of Human Rights.
- Blokhin v. Russia, App. No. 47152/06, 23 March 2016, European Court of Human Rights.
- Bouamar v. Belgium, App. No. 9106/80, 22 February 1988, European Court of Human Rights.
- D.L. v. Bulgaria, App. No. 7472/14, 19 May 2016, European Court of Human Rights.
- Gubić v. Croatia, App. No. 23682/13, 27 February 2018, European Court of Human Rights.
- İlhan v. Turkey, App. No. 22277/93, 27 June 2000, European Court of Human Rights.
- K.C. v. Poland, App. No. 31199/12, 25 November 2014, European Court of Human Rights.
- Koniarska v. the United Kingdom, App. No. 33670/96, 12 October 2000, European Court of Human Rights.
- Kudła v. Poland, App. No. 30210/96, 26 October 2000, European Court of Human Rights.
- Maslov v. Austria, App. No. 1638/03, 23 June 2008, European Court of Human Rights.
- Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, App. No. 13178/03, 12 October 2006, European Court of Human Rights.
- Nart v. Turkey, App. No. 20817/04, 6 October 2009, European Court of Human Rights.
- Panovits v. Cyprus, App. No. 4268/04, 11 December 2008, European Court of Human Rights.
- Radkov v. Bulgaria, App. No. 27795/10, 22 October 2013, European Court of Human Rights.
- Salduz v. Turkey, App. No. 36391/02, 27 November 2008, European Court of Human Rights.
- Selcuk v. Turkey, App. No. 21768/02, 10 January 2006, European Court of Human Rights.
- Shannon v. the United Kingdom, App. No. 6563/03, 4 October 2005, European Court of Human Rights.
- Stanev v. Bulgaria, App. No. 36760/06, 17 January 2012, European Court of Human Rights.

T. v. the United Kingdom, App. No. 24724/94, 16 December 1999, European Court of Human Rights.
Tyrer v. the United Kingdom, App. No. 5856/72, 25 April 1978, European Court of Human Rights.
V. v. the United Kingdom, App. No. 24888/94, 16 December 1999, European Court of Human Rights.
Z. and Others v. the United Kingdom, App. No. 29392/95, 10 May 2001, European Court of Human Rights.

MALOLETNICI U KRIVIČNOM PRAVU EVROPSKE UNIJE: UPOREDNOPRAVNE PERSPEKTIVE I IZAZOVI

Apstrakt: Ovaj rad ispituje pravni položaj maloletnika u pravnom okviru Evropske unije (EU), sa posebnim osvrtom na procesne garancije, mere rehabilitacije i izazove u njihovoj primeni. Analizira relevantne direktive, Evropsku konvenciju o ljudskim pravima (ECHR) i Povelju o osnovnim pravima EU. Rad takođe ističe nesklad u primeni propisa među državama članicama i predlaže preporuke za njihovo usklađivanje. Pravni okvir EU naglašava zaštitu prava dece u krivičnim postupcima, osiguravajući njihovo pravično tretiranje i promovišući društvenu reintegraciju umesto kaznenih mera. Analizom relevantnih pravnih instrumenata i sudskih interpretacija, ovaj rad identifikuje nedostatke u trenutnom sistemu i predlaže politička rešenja za unapređenje pravosuđa za maloletnike u EU.

Ključne reči: maloletničko pravosuđe, pravo EU, procesne garancije, rehabilitacija, pravni okvir, prava dece, restorativna pravda, programi preusmeravanja, alternativne sankcije, pravično suđenje, pravno zastupanje.