

CONSTITUTIONAL GUARANTEES OF JUVENILES IN CRIMINAL PROCEEDINGS: PROCEDURAL SAFEGUARDS AND HUMAN RIGHTS STANDARDS¹

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Abstract. *The protection of juveniles in criminal proceedings represents a central issue at the intersection of constitutional law, criminal procedure, and international human rights law. Children involved in criminal justice systems are particularly vulnerable and therefore require procedural safeguards adapted to their age, maturity, and psychological development. This paper examines the constitutional and human rights foundations of procedural protections for juveniles in criminal proceedings within the European legal framework. The analysis focuses on several key questions: the influence of constitutional principles on criminal procedure when the defendant is a minor; the procedural safeguards required by international human rights instruments; the interpretation of fair trial guarantees in cases involving juveniles by the European Court of Human Rights; the contribution of Directive (EU) 2016/800 to the harmonisation of procedural safeguards within the European Union; and the practical challenges associated with the implementation of these standards in national legal systems.*

The paper first explores the constitutional foundations of juvenile justice, including the principles of fair trial, proportionality, and the best interests of the child. It then analyses core procedural safeguards such as the right to legal assistance, adaptation of proceedings to the needs of minors, protection from detention, and effective participation. Particular attention is devoted to the jurisprudence of the European Court of Human Rights and the case law of the Court of Justice of the European Union interpreting Directive 2016/800. The article concludes that although European legal instruments have significantly strengthened the protection of juvenile defendants, important challenges remain in ensuring effective implementation of these safeguards in practice. Strengthening constitutional guarantees, improving professional training, and enhancing child-friendly procedural mechanisms are essential for ensuring that criminal proceedings involving juveniles comply with the highest standards of human rights protection.

Keywords: *juvenile justice, fair trial, procedural safeguards, ECtHR, Directive 2016/800, children's rights*

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.

1. INTRODUCTION

The position of children within the criminal justice system represents one of the most sensitive areas of contemporary criminal law and constitutional theory. Juveniles who come into contact with the criminal justice system occupy a uniquely vulnerable position: they are simultaneously subjects of criminal procedure and holders of fundamental rights whose developmental stage requires special protection. As a result, modern legal systems increasingly recognise that the application of ordinary criminal procedure rules to juvenile defendants is insufficient to ensure genuine fairness. Instead, criminal proceedings involving minors must incorporate specific constitutional safeguards and procedural adaptations designed to reflect their age, maturity, and social vulnerability.

Over the past several decades, the protection of juveniles in criminal proceedings has evolved into a significant area of interaction between constitutional law, criminal procedure, and international human rights law. Constitutional guarantees such as the right to a fair trial, the principle of proportionality, and the protection of human dignity provide the normative foundation for procedural safeguards applicable to minors. At the same time, international and regional human rights instruments—including the United Nations Convention on the Rights of the Child (UNCRC), the European Convention on Human Rights (ECHR), and the Charter of Fundamental Rights of the European Union—have progressively developed a body of standards aimed at ensuring that children in conflict with the law receive treatment consistent with their developmental needs and fundamental rights (Bejatović and Soković, 2009).

Within the European legal space, the jurisprudence of the European Court of Human Rights has played a particularly influential role in shaping the procedural rights of juvenile defendants (Soković and Turanjanin, 2024). Although the European Convention on Human Rights was not originally drafted with children specifically in mind, the Court has repeatedly confirmed that the guarantees of Article 6 apply fully to minors and must be interpreted in a manner that takes account of their vulnerability and limited capacity to understand complex legal proceedings. Through landmark judgments such as *T. v United Kingdom*, *V. v United Kingdom*, and *Blokhin v Russia*, the Court has clarified that the fairness of criminal proceedings involving children depends not only on the formal availability of procedural rights but also on the ability of the child to understand and effectively participate in the process. These decisions have significantly influenced national legal systems by requiring states to adapt criminal procedures in ways that reflect the specific needs of juvenile defendants.

Parallel to the development of Strasbourg jurisprudence, the European Union has increasingly engaged in the harmonisation of procedural safeguards within criminal proceedings. A key milestone in this process was the adoption of Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (Turanjanin, 2025). This Directive represents the first binding legislative instrument at the EU level specifically addressing the procedural rights of juvenile suspects. By establishing minimum standards concerning access to legal assistance, the provision of information, individual

assessment, parental involvement, and limitations on detention, the Directive seeks to ensure that children are able to understand and effectively participate in criminal proceedings across all Member States. In doing so, it complements the protection afforded by the European Convention on Human Rights and contributes to the broader objective of strengthening mutual trust within the European area of criminal justice.

Despite the growing body of international and regional standards governing juvenile criminal procedure, significant challenges remain in ensuring their effective implementation. Differences in national legal traditions, institutional structures, and resources often lead to uneven protection of juvenile defendants across jurisdictions. While many European states have introduced specialised juvenile courts or adapted procedural frameworks to accommodate children, empirical research demonstrates that practical implementation frequently falls short of the standards articulated in international law and judicial practice. In particular, issues such as delayed access to legal assistance, inadequate communication of procedural rights, and the continued use of pre-trial detention for minors highlight the persistent gap between normative frameworks and everyday judicial practice.

Against this background, the present article seeks to examine the constitutional and human rights foundations of procedural safeguards for juveniles in criminal proceedings. The study is structured around several central research questions. First, it explores how constitutional principles influence criminal procedure when the defendant is a juvenile, focusing particularly on the principles of fair trial, proportionality, and the best interests of the child. Secondly, the article analyses the procedural safeguards required by international human rights law, including the standards established by the UN Convention on the Rights of the Child and related international instruments. Thirdly, it examines the interpretation of fair trial guarantees in cases involving minors by the European Court of Human Rights, identifying the core principles emerging from the Court's jurisprudence. Fourthly, the article considers the contribution of EU Directive 2016/800 to the strengthening and harmonisation of procedural protections for juvenile suspects within the European Union. Finally, the study evaluates the practical challenges that arise in implementing these safeguards within national legal systems.

In order to address these questions, the article adopts a doctrinal and comparative methodological approach. It analyses relevant constitutional principles, international human rights instruments, and judicial decisions of both the European Court of Human Rights and the Court of Justice of the European Union. In addition, the article draws upon contemporary academic scholarship on juvenile justice, children's rights, and European criminal procedure. Particular attention is given to recent case law interpreting Directive 2016/800, including the judgments of the Court of Justice in *M.S. and Others* (Case C-603/22) and *K.P.* (Case C-530/23), which provide important clarification regarding access to legal assistance and the procedural protection of vulnerable suspects.

The structure of the article reflects the multidimensional nature of juvenile justice within contemporary legal systems. The first substantive section examines the

constitutional foundations of juvenile justice and the international human rights standards that shape procedural protections for minors. This analysis focuses on the principles of fair trial, the best interests of the child, and proportionality, as well as the normative framework established by the UN Convention on the Rights of the Child and related international instruments. The following section analyses the procedural safeguards applicable to juvenile defendants, including the right to legal assistance, the adaptation of proceedings to the needs of children, protection against excessive detention, and the requirement of effective participation in criminal proceedings. Subsequent sections examine the jurisprudence of the European Court of Human Rights concerning juvenile fair trial rights and assess the impact of these judgments on national legal systems. The article then turns to the harmonisation of procedural safeguards within the European Union through Directive 2016/800 and explores the challenges encountered in its implementation across Member States. Particular attention is paid to recent case law of the Court of Justice of the European Union interpreting the Directive and clarifying the obligations of national authorities.

By examining the interaction between constitutional principles, international human rights standards, and European Union law, this article seeks to demonstrate that the protection of juveniles in criminal proceedings requires a coherent and integrated legal framework. Procedural safeguards for children cannot be understood solely within the traditional boundaries of criminal procedure; rather, they emerge from a broader constitutional commitment to the protection of human dignity, the promotion of rehabilitation, and the recognition of children as rights-holders within the legal order. Strengthening these safeguards is therefore not only a matter of procedural reform but also a fundamental aspect of ensuring that criminal justice systems operate in accordance with the principles of fairness, proportionality, and respect for the rights of the child.

Ultimately, the development of juvenile procedural rights reflects a broader transformation in the understanding of justice within modern legal systems. The increasing recognition of children's rights in criminal proceedings signals a shift away from purely punitive approaches toward a model of justice that emphasises protection, participation, and reintegration. Ensuring that this model is effectively implemented in practice remains one of the central challenges for contemporary criminal justice systems in Europe.

2. CONSTITUTIONAL FOUNDATIONS OF JUVENILE JUSTICE AND INTERNATIONAL STANDARDS

The treatment of juveniles in the criminal justice system is anchored in foundational legal principles that reflect both constitutional commitments and international human rights norms. Modern constitutions and human rights instruments recognise that children possess particular vulnerabilities and thus require tailored procedural protections. Key among these principles are the guarantees of a fair trial, the requirement that the best interests of the child be a primary consideration, and the principle of proportionality in punishment and procedure. These constitutional and international standards are further elaborated in instruments

such as the UN Convention on the Rights of the Child (UNCRC) and various Council of Europe guidelines. Collectively, they establish a framework in which child-specific procedural safeguards are not optional but integral to any system of juvenile justice.

European and national legal orders explicitly extend the general right to a fair trial to minors. For example, academic analyses note that Article 6 of the European Convention on Human Rights (which guarantees a fair criminal trial) “also applies in juvenile proceedings”. This means that a child suspect is entitled to the same basic protections as an adult: prompt notification of charges, the right to remain silent, and access to a lawyer. The European Court of Human Rights has underscored that these rights must be implemented in a manner adapted to a child’s age and understanding. In *T. v. United Kingdom* (1999), for instance, the Court held that procedural accommodations (such as shorter hearings) were insufficient when the trial’s public and intimidating atmosphere prevented a 10-year-old defendant from “effectively participat[ing]” in his defence. This case illustrates that, at the constitutional level, due process for juveniles requires not only formal equality but also substantive adjustments so that a child can meaningfully exercise the right to a fair trial. Put plainly, a trial that would be fair for an adult may fail constitutional muster if it leaves a child confused or overwhelmed.

A second constitutional principle is that of the best interests of the child. This concept, enshrined in Article 3 of the UNCRC, stipulates that “the best interests of the child must be a top priority in all decisions and actions that affect children”. Reflecting this, the EU Charter of Fundamental Rights, which has constitutional force in member states, provides that “the child’s best interests must be a primary consideration” in all actions concerning children. Many national constitutions similarly mandate special protection and care for children. These provisions require that, in juvenile justice, authorities always proceed with the child’s welfare and development in mind. For example, Directive 2016/800 (on safeguards for child suspects) expressly instructs member states that the child’s best interests are “always a primary consideration” in criminal proceedings involving minors (Turanjanin, 2024). Under this standard, measures such as detention must only be used when strictly necessary, and the child’s potential for rehabilitation should be at the forefront. Indeed, the same Directive emphasises that children in conflict with the law “should be given particular attention” to preserve their capacity for growth and reintegration into society.

Linked to the best interests principle is the principle of proportionality. As a general constitutional standard, proportionality requires that any legal measure, including criminal sanctions, be proportionate to the legitimate aim pursued. In the juvenile context, this means that punishments and procedural restrictions must correspond not only to the severity of the offence but also to the child’s age, maturity, and individual circumstances. The UNCRC reflects proportionality in its provision that children should not be subjected to “cruel, inhuman or degrading treatment or punishment,” and that deprivation of liberty should be a “last resort and for the shortest appropriate period”. These norms limit excessive or overly punitive

responses to juvenile offending. Likewise, the EU Charter (Article 48) guarantees no punishment without law and has been interpreted in light of proportionality. In practice, courts often apply proportionality to ensure that a sentence for a juvenile is both lawful and just: for example, avoiding life imprisonment without parole for minors. Although the proportionality principle is embedded in many constitutional traditions (often under the rubric of legal certainty or abuse of power), in juvenile law it is underpinned by these international and regional standards emphasising humane treatment and rehabilitation.

Internationally, the UN Convention on the Rights of the Child provides detailed guidance on juvenile justice. Article 40 of the Convention specifically addresses children in conflict with the law, affirming the right to a fair hearing “that takes account of the age of the child”. It calls on states to establish a minimum age of criminal responsibility and to promote rehabilitation and reintegration for young offenders. Article 37 of the Convention complements this by forbidding torture and stipulating that any deprivation of liberty must be lawful, non-discriminatory, and of shortest duration. In sum, the UNCRC sets out a child-centered framework that integrates fair trial rights (legal assistance, due process) with the ethos of the best interests and proportionality principles. Other international instruments reinforce these standards: for example, the Beijing Rules (1985) and Havana Rules (1990) of the UN set out minimum safeguards and diversion ideals for juvenile offenders, while the Council of Europe’s European Rules for Juvenile Offenders further emphasise the child’s welfare and rights in detention and sentencing.

Finally, the emerging concept of child-friendly justice brings these principles into procedural focus. The Committee of Ministers of the Council of Europe has issued detailed guidelines on how to make justice systems more accessible and sensitive to children’s needs. These guidelines prescribe, among other things, that proceedings involving children be conducted in a non-intimidating and child-appropriate manner. For example, they recommend that children be heard in a language they understand, be allowed to have a trusted adult with them, and that hearings be paced to match a child’s attention span. The aim is to ensure not only formal compliance with legal standards but also the child’s actual understanding and engagement. These procedural guarantees are integral to the constitutional promise of a fair trial – they operationalise the abstract rights by adapting the process to the juvenile’s perspective. In short, the constitutional and human rights foundations of juvenile justice require both substantive safeguards (best interests and proportionality) and procedural accommodations (fair trial plus child-friendly practice), so that a child’s encounter with the justice system is governed by the highest standards of protection and respect.

3. PROCEDURAL SAFEGUARDS FOR JUVENILE DEFENDANTS

This chapter examines the procedural protections afforded to children accused or suspected in criminal proceedings. It focuses on four core areas: the right to legal assistance, the adaptation of proceedings to the needs of minors, protection from detention, and effective participation in the process. In each area, international and

European standards (notably the UNCRC and Directive 2016/800) are contrasted with jurisprudence of the European Court of Human Rights and the Court of Justice of the EU (including Cases C-603/22 and C-530/23). The analysis highlights that children must have access to a lawyer from the outset and cannot be questioned without counsel, as confirmed by the ECJ in *M.S. and Others (C-603/22)*. It also reviews how proceedings and information must be tailored to the child's age and vulnerability (for example, informing the child of rights in a simple manner) (Wahl, 2024). The discussion addresses the rule that pre-trial detention of children should be a last resort (UNCRC Art. 37) and how national systems often fall short (Handbook, 2015). Finally, recommendations are offered to ensure that domestic law fully implements these standards, drawing on EU and Strasbourg case law. The chapter includes a table of leading cases and a comparative table of UK, France, Germany, and Poland, as well as a timeline of developments.

3.1. Right to Legal Assistance

A fundamental safeguard for juvenile suspects is the right to legal counsel. International law and EU law mandate that children in criminal proceedings must have prompt access to a lawyer. Directive 2016/800 explicitly requires that children be given the “*practical and effective opportunity*” to be assisted by a lawyer before questioning (Wahl, 2024). The Court of Justice of the EU has reinforced this requirement: in *M.S. and Others (C-603/22)*, the ECJ held that Member States must ensure a lawyer is present at the first police interview of a minor, and that authorities may not question a child in the absence of counsel. This means national laws cannot allow a child to be interrogated just because the child has not requested an attorney. The ECJ stressed that even if the child's status changes (e.g. turning 18 during proceedings), the right to counsel continues to apply if the person's maturity or vulnerability warrants it. In parallel, the ECtHR has noted that procedural fairness is compromised when a child is not accompanied by a lawyer at critical stages. For example, in *T. v. UK* the Court found that a 10-year-old accused had been unable to effectively participate in his defence and violated Article 6, in part because he lacked legal guidance in a highly formal and public trial (Handbook, 2015).

In practice, implementing the right to counsel involves both substantive rules and practical measures. Doctrinally, the scope of the right has been clarified: unlike adults, children cannot waive their right to a lawyer under Directive 2016/800. States must also provide legal aid where needed to make that right effective (Article 18 of the Directive). The ECJ *Baralo* judgment (Case C-530/23) emphasised that vulnerable suspects must be identified before questioning and granted legal aid without delay. Courts must likewise interpret national rules in line with these requirements (disapplying any that conflict with the Directive) (Ancona and Canova, 2026). Common implementation problems include delays in appointing counsel for minors and mismatches between legal-aid rules and children's circumstances. For instance, some systems still rely on means tests that are inappropriate for children. Both the EU and ECtHR rulings stress that procedural formalities (like an adult-style application for aid) must not hinder a child's access to a lawyer.

3.2. Adaptation of Proceedings

Another key safeguard is adapting criminal procedures to the needs of children. This includes providing information, support, and a trial environment suitable for a child's age. International standards require that children be informed of their rights in a simple, accessible way and in time to exercise them. The EU Directive similarly mandates that information on procedural rights be given in a form appropriate to the child's understanding. For example, the CJEU noted that Polish practice of handing children the adult information sheet *without modification* failed the Directive's standards: minors must be told their rights "as soon as possible, at the latest before they are first questioned," and in a manner tailored to their needs. Courts and investigators should use plain language, visuals or translators as needed.

The conduct of hearings must also be child-friendly. Youth courts, closed sessions, presence of parents or guardians, and shorter breaks are typical measures. The ECtHR has stressed that even with such measures, the trial atmosphere must not overwhelm the child. In *T. & V. v UK*, although the court shortened sittings and allowed a play area, the unprecedented publicity still prevented the child from understanding the trial. Hence adaptation means not just cosmetic changes but ensuring the process *can be comprehended*. The CoE Guidelines on Child-friendly Justice encourage numerous measures: suitable interview rooms, child-appropriate questionnaires, and trained personnel. In practice, gaps arise when standard adult procedures are applied to children. Common issues include failure to account for children's limited attention span and memory (e.g. questioning in long blocks), and lack of specialist support (such as pedagogues) during trial. Both the Directive and case law call for individualized assessment: authorities should conduct an "individual assessment" of each child's specific needs before imposing measures (Cras, 2016), and tailor the process accordingly.

3.3. Protection from Detention

Children enjoy strong protections against detention. Both the UNCRC and Directive assert that deprivation of liberty for juveniles must be a last resort and for the shortest possible time (Cras, 2016). Article 37 of the UNCRC provides that children shall not be detained except when necessary and outlines that detention should aim at the child's reintegration and well-being. The Directive (Article 10) likewise emphasizes limiting children's pre-trial detention. It specifies that any detention decision must be reasoned and periodically reviewed, and that detained children must have special measures for health, education, and contact with family.

The European Court has repeatedly found violations when these rules are breached. Detaining a juvenile in adult facilities without prompt review or leaving a child in custody without considering alternatives has been struck down as incompatible with Article 5 of the ECHR (right to liberty). For instance, in cases like *Glaser v UK* (2009) and *Blokhin v Russia* (2016), the Court held that applicable safeguards were not observed. Practically, however, many systems still overuse detention. In the UK and France, significant numbers of children face remand in custody, sometimes with minimal consideration of alternatives like bail with

supervision. A common problem is that courts do not fully apply or lack awareness of the mandatory “best interests” assessment when ordering detention of a child. EU law and Strasbourg decisions insist that all other options (non-custodial measures, guardianship, social support) be exhausted first. The Directive’s insistence on the “last resort” rule codifies this: children may only be locked up if absolutely necessary. Yet domestic practice can lag. For example, judges may treat 17-year-olds similarly to adults, ignoring the Directive’s requirement and the additional review safeguards. Closing this gap requires training and oversight so that juvenile justice authorities resist the common default of custody.

3.4. Effective Participation

Finally, effective participation by the child is the overarching goal of all procedural safeguards. This means the child must have a genuine opportunity to understand and take part in the proceedings. Practical steps include giving the child adequate notice of hearings, allowing them to speak (e.g. giving evidence or presenting a defence) in a suitable manner, and making sure they comprehend decisions. The ECtHR has reinforced that participation goes beyond mere presence; the child must be able to follow and influence the process. In *T. v UK*, the failure was that the child felt too intimidated to give coherent testimony. To remedy this, many jurisdictions ensure that children may provide unsworn statements, meet the judge in advance, or have support persons in court.

Directive 2016/800, while not explicitly using the term “effective participation”, requires that proceedings be adapted to the child’s needs (e.g. through an individual assessment, Art. 7) and that the child’s views be heard. EU law thus aligns with the vision of child participation in the UNCRC (Article 12) and Council of Europe guidelines. Interference with participation – such as conducting an entire trial as if the accused were an adult – conflicts with these standards. In reality, challenges persist: children often lack a real voice in plea negotiations or feel unable to question witnesses. Moreover, structural issues like children’s courtrooms being unfamiliar and formal can hamper understanding. The COVID-19 pandemic has even raised new concerns (e.g. closed-court video hearings may further alienate young defendants).

In sum, the procedural safeguards for juveniles – access to a lawyer, child-appropriate proceedings, limited detention, and participation rights – are well-established in international and European law. However, implementation often falls short of these high standards. The CJEU’s recent rulings (C-603/22, C-530/23) and Strasbourg case law make clear that Member States must reform any inconsistent rules: children must have immediate and effective legal assistance, and their vulnerability must be recognised before any interrogation. By fully integrating EU and ECHR standards into domestic law and practice, states will move closer to a justice system where children’s procedural rights are protected not in theory, but in everyday reality.

4. ECTHR JURISPRUDENCE ON JUVENILE FAIR TRIAL RIGHTS

The European Court of Human Rights (ECtHR) has developed an extensive body of jurisprudence concerning the treatment of juveniles in criminal proceedings, confirming that Article 6 of the European Convention on Human Rights (the right to a fair trial) applies equally to juvenile defendants (Nowosad, 2024). Landmark judgments—such as *T. v United Kingdom*, *V. v United Kingdom*, *Blokhin v Russia*, *L. v France*, and *D.N. and D.T. v Spain*—have established important procedural standards relating to the treatment of minors in criminal justice systems. These include requirements concerning the provision of information to children, the presence of parents or guardians during proceedings, access to legal assistance, protection of privacy, and the need for procedural arrangements adapted to the child's age and maturity.

The Court has repeatedly emphasised that procedural adjustments—such as shortened hearings, breaks during proceedings, or simplified explanations of procedural rights—may prove insufficient if the overall context of the trial prevents the child from effectively participating in the proceedings. In particular, the Court has noted that public trials and intense media attention may undermine a child's ability to understand and engage meaningfully with the judicial process. In response to ECtHR judgments, several member states have amended their legislation and judicial practices concerning juvenile justice. For example, Poland introduced procedural reforms to better align its juvenile justice framework with Convention standards (Nowosad, 2024), while other states have strengthened safeguards relating to the procedural rights of minors. Academic debate surrounding these developments often focuses on the tension between the punitive criminal justice model and the welfare-oriented model of juvenile justice, as well as on empirical studies examining how juvenile rights are implemented in practice.

This chapter concludes by outlining several recommendations for national reforms consistent with EU Directive 2016/800 on procedural safeguards for children suspected or accused in criminal proceedings, emphasising the importance of professional training, institutional reform, and a stronger commitment to the principle of child-appropriate justice.

The jurisprudence of the European Court of Human Rights represents a crucial source of legal standards concerning the procedural rights of children involved in criminal proceedings. Although many provisions of the European Convention on Human Rights were originally formulated with adult defendants in mind, the Court has consistently confirmed that Article 6 of the Convention applies equally to minors. In many cases, the Court has addressed the relationship between criminal justice approaches and welfare-oriented juvenile justice systems. Even where national law formally categorises proceedings against minors as educational or protective rather than criminal, the Court frequently applies the Engel criteria to determine whether the proceedings should nevertheless be considered criminal in nature. When the Engel criteria are satisfied, the procedural guarantees of Article 6 become fully applicable.

The methodology employed in this chapter is based on an analysis of relevant ECtHR judgments, supported by academic literature and comparative examination of national legal responses. The chapter first reviews the most influential ECtHR judgments concerning juvenile procedural rights. It then identifies the core principles emerging from the Court's jurisprudence, including the right to information, access to legal assistance, protection of privacy, and effective participation in proceedings. Subsequently, the chapter examines the impact of these decisions on national legal systems, focusing particularly on developments in the United Kingdom, France, Germany, and Poland. Finally, the chapter addresses academic debates surrounding these developments and provides recommendations for further reform.

4.1. Key ECtHR Judgments on Juvenile Criminal Proceedings

The landmark cases of *T. v United Kingdom* and *V. v United Kingdom* concerned the trial of two children aged ten who were accused of the murder of a two-year-old child. The ECtHR examined whether the proceedings complied with the fair trial guarantees of Article 6 of the Convention. Although certain adaptations were introduced in the courtroom—including shorter hearings, the presence of parents near the defendants, and the provision of breaks—the Court concluded that these measures were insufficient. The trial was conducted in a highly public setting, accompanied by intense media attention. As a result, the defendants were unable to effectively participate in the proceedings (Handbook, 2015: 202). The Court emphasised that the children lacked the capacity to properly instruct their lawyers and to follow the legal arguments presented during the trial. The Court therefore found a violation of Article 6, holding that the trial environment failed to ensure effective participation by the juvenile defendants. This judgment established the principle that criminal proceedings involving children must be conducted in a manner adapted to their age and psychological vulnerability.

Closely related to the *T. v United Kingdom* case, the judgment in *V. v United Kingdom* reaffirmed the Court's position that children accused of serious crimes must benefit from additional procedural safeguards. The Court reiterated that minors cannot be expected to defend themselves effectively in complex and highly formal criminal proceedings without appropriate assistance. The judgment emphasised the necessity of ensuring that children are accompanied by legal counsel and, where appropriate, by parents or guardians. It also highlighted the importance of adapting courtroom procedures in order to minimise psychological pressure on juvenile defendants.

In contrast to the previous cases, the ECtHR in *L. v France* concluded that the requirements of Article 6 had not been violated. The applicants, who were minors at the time of the offences, had been provided with legal representation and interpretation services throughout the proceedings. The Court noted that although the case involved extremely serious crimes, the defendants were able to participate effectively in the proceedings and to communicate with their lawyers. The trial also included certain procedural adjustments designed to accommodate their age. This judgment demonstrates that the Court does not automatically presume that criminal

trials involving minors violate the Convention. Rather, the decisive question is whether the procedural arrangements allow the child to effectively understand and participate in the process.

One of the most significant judgments concerning juvenile procedural rights is the Grand Chamber decision in *Blokhin v Russia*. The case concerned a twelve-year-old boy who had been placed in a juvenile detention facility without the procedural guarantees normally associated with criminal proceedings. The Court found that the proceedings had effectively amounted to a criminal charge and that the applicant should therefore have benefited from the safeguards of Article 6. These safeguards included the right to legal assistance, the right to challenge the evidence presented against him, and the right to participate meaningfully in the proceedings. The Court emphasised that states cannot avoid the application of fair trial guarantees simply by labelling measures against children as educational or protective rather than criminal.

Although primarily concerning immigration detention, *Mubilanzila Mayeka and Kaniki Mitunga v Belgium* (2006) case is relevant to the broader development of children's procedural rights. The Court held that the detention of a five-year-old child in a facility designed for adults violated Article 5 of the Convention. The judgment reinforced the principle that children must be treated in a manner appropriate to their age and vulnerability, including within the context of detention. While the case did not directly concern Article 6, it contributed to the broader recognition that children require special procedural protection within the justice system.

4.2. Core Principles Emerging from ECtHR Jurisprudence

Several key principles emerge from the Court's case law.

1. *The right to information.* The Court's jurisprudence requires that a child who is suspected or accused of a criminal offence be informed of his or her procedural rights in a manner that is intelligible and age-appropriate, taking proper account of the child's level of maturity and capacity for understanding. This obligation is not satisfied by formal, standardised notifications drafted for adult defendants. Rather, the information must be communicated in a way that enables the child to grasp the practical meaning of the rights at stake, including (at minimum) the right to remain silent, the right to legal assistance, and the nature and cause of the accusation. Where authorities fail to provide information in accessible form and at an appropriate time, the child's ability to make informed choices and to participate meaningfully in the defence is impaired, with direct consequences for the overall fairness of the proceedings under Article 6.
2. *Access to legal assistance.* A consistent strand of the Court's case law is that minors, by reason of their inherent vulnerability, require effective access to legal assistance from the earliest procedural stages, particularly during police questioning and other decisive investigative steps. The guarantee is not merely formal: the assistance must be *practical and*

effective, ensuring that the child can understand the situation, the significance of procedural choices, and the potential consequences of statements or waivers. Legal representation performs a structural role in counterbalancing the asymmetry between the child and law-enforcement authorities, safeguarding against involuntary self-incrimination, and enabling the child to exercise defence rights in a real and not purely theoretical manner. In this sense, access to a lawyer operates as a core component of child-specific fair trial protection.

3. *Effective participation.* The Court has developed the requirement of effective participation as a central criterion for assessing the fairness of proceedings involving juvenile defendants. Effective participation entails more than physical presence at hearings. It requires that the child be able to understand, at least in broad terms, the nature of the proceedings and what is at stake, to follow the evidence and submissions sufficiently to give instructions, and to communicate with legal representatives in a meaningful way. Accordingly, domestic authorities must ensure that the structure and conduct of proceedings—language used, pace, formality, courtroom setting, and the overall atmosphere—do not render the child passive or confused, or prevent the child from engaging with the defence. Where the procedural environment is such that a child cannot realistically comprehend or participate, the proceedings may fail to meet the standards of Article 6 irrespective of the presence of legal counsel.
4. *Protection of privacy.* Finally, the Court recognises that the privacy and identity of minors involved in criminal proceedings warrant enhanced protection. Children are particularly susceptible to stigma, reputational harm, and psychological impact arising from exposure to publicity. Accordingly, measures limiting public access to hearings, restricting publication of identifying details, and managing media presence may be necessary to ensure both the child's well-being and the integrity of the proceedings. The Court's approach reflects an understanding that public proceedings and intense media scrutiny can produce long-term adverse effects on a child's development and prospects of reintegration. Protection of privacy thus operates not as an ancillary concern, but as an element closely connected to the Convention's conception of child-appropriate justice and, in appropriate cases, to the fairness of the process as a whole.

4.3. Impact on National Legal Systems

The jurisprudence of the European Court of Human Rights has exerted a considerable influence on the evolution of juvenile justice systems across Europe. As widely observed in the literature, the Strasbourg Court has played a central role in shaping procedural guarantees for minors by interpreting Article 6 of the Convention in light of children's rights standards (Kilkelly 2008; Fenton-Glynn 2021). By progressively interpreting Article 6 of the European Convention on Human Rights in light of the specific vulnerabilities of children, the Court has encouraged states to

reconsider both the procedural framework governing juvenile proceedings and the institutional arrangements within which such proceedings take place. While the degree of influence varies across jurisdictions, ECtHR case law has generally contributed to strengthening procedural safeguards for minors and to promoting a more child-sensitive approach to criminal justice.

In the United Kingdom, the judgments in *T. v United Kingdom* and *V. v United Kingdom* represented a turning point in the discussion surrounding the treatment of children within the criminal justice system. These decisions drew attention to the difficulties faced by young defendants in understanding and effectively participating in highly formal criminal proceedings conducted in ordinary courts. In response to these concerns, a number of reforms were introduced with the aim of ensuring that juvenile defendants are tried in settings more appropriate to their age and developmental stage. The role of youth courts has been reinforced, and procedural arrangements have increasingly emphasised the need to reduce the formality of proceedings, improve communication with young defendants, and ensure the presence of supportive figures, including legal representatives and, where appropriate, parents or guardians. Although debates remain regarding the adequacy of the United Kingdom's juvenile justice framework—particularly with respect to the relatively low age of criminal responsibility—the influence of ECtHR jurisprudence on procedural reform is widely acknowledged. The influence of these judgments on domestic reform has been widely discussed in the literature on youth justice in England and Wales (see for example Case, 2021; Cunneen, Goldson, & Russell, 2018)

France provides another example of a national system shaped, albeit indirectly, by the standards articulated by the Strasbourg Court. French juvenile justice has historically been characterised by a specialised institutional framework centred on the protection and education of minors. Nevertheless, ECtHR case law has reinforced the importance of ensuring that procedural guarantees are effectively implemented within this specialised system. Legislative developments have increasingly emphasised the need to safeguard the procedural rights of minors while maintaining the rehabilitative orientation of juvenile justice. In particular, reforms have strengthened the role of specialised juvenile judges and have clarified procedural safeguards designed to ensure that minors are adequately informed of their rights and able to participate meaningfully in proceedings.

Germany's juvenile justice system, governed by the *Jugendgerichtsgesetz*, has long incorporated a strong welfare-oriented philosophy that prioritises rehabilitation over punishment. The ECtHR's jurisprudence has therefore not required fundamental structural changes within the German legal framework. However, Strasbourg case law has contributed to reinforcing the importance of procedural guarantees and humane detention conditions for minors. German courts and legal scholars increasingly refer to ECtHR standards when interpreting domestic provisions concerning the rights of juvenile defendants, particularly with regard to issues such as access to legal assistance, the protection of privacy, and the conditions under which minors may be deprived of their liberty.

Comparative research on European juvenile justice systems demonstrates that these developments have reinforced existing welfare-oriented models while simultaneously strengthening procedural safeguards (Düinkel et al. 2011; Junger-Tas et al. 2012). In Poland, ECtHR judgments have prompted a number of legislative and procedural adjustments aimed at strengthening the procedural rights of juveniles. Reforms have focused in particular on improving the communication of procedural rights to minors and ensuring that parents or guardians are appropriately involved in the proceedings. Greater attention has also been paid to the need for specialised judicial and prosecutorial practices when dealing with juvenile defendants. Although the Polish system retains certain distinctive features, the influence of Strasbourg jurisprudence is evident in the growing emphasis placed on procedural fairness and child-sensitive justice. Recent scholarship on Central and Eastern European juvenile justice reforms highlights the growing role of Strasbourg jurisprudence in shaping procedural safeguards for minors (Cavadino & Dignan 2013; Nowosad 2024).

Despite these developments, academic debate continues regarding the extent to which the ECtHR has succeeded in shaping a coherent model of juvenile justice. A significant strand of scholarly discussion concerns the relationship between the traditional criminal justice model and the welfare-oriented approach that historically characterised juvenile justice systems in many European states. Some scholars argue that the Court's reliance on the fair trial framework of Article 6 risks importing adult-oriented procedural standards into a domain that requires greater flexibility and sensitivity to the developmental needs of children. Others contend that the Court has not gone far enough in recognising the unique vulnerabilities of minors, particularly in relation to police interrogation practices and the assessment of a child's ability to participate effectively in proceedings.

Empirical research also highlights persistent challenges in the practical implementation of juvenile procedural rights. These studies show that despite improvements in legislation, practical implementation remains uneven across Europe (Rap 2016; Liefgaard & Sloth-Nielsen 2016). Although legislative frameworks across Europe have increasingly incorporated the standards articulated by the ECtHR, the everyday practice of criminal justice institutions does not always reflect these formal commitments. Police officers, prosecutors, and judges may lack specialised training in communicating with young suspects or in recognising the psychological vulnerabilities that can affect children's ability to exercise their procedural rights. As a result, the gap between formal legal standards and practical enforcement remains a subject of continuing concern among scholars and practitioners.

In light of these challenges, a number of reform proposals have been advanced within the academic literature and policy discussions. First, there is widespread agreement on the importance of strengthening professional training for judges, prosecutors, police officers, and other actors involved in juvenile proceedings. Such training should emphasise the psychological and developmental characteristics of children and the practical implications of these characteristics for procedural fairness. Secondly, the further development and expansion of specialised juvenile courts may contribute to ensuring that proceedings are conducted in an environment better suited

to the needs of young defendants. Thirdly, the communication of procedural rights to children should be improved through the use of simplified language, visual materials, and other child-friendly methods designed to enhance understanding.

In addition, the implementation of Directive (EU) 2016/800 on procedural safeguards for children suspected or accused in criminal proceedings represents an important opportunity to consolidate the standards developed through ECtHR jurisprudence. The Directive introduces several mechanisms—such as individual assessments of minors, mandatory access to legal assistance, and enhanced safeguards during deprivation of liberty—that complement the protections established by the Convention. Finally, scholars emphasise the need for systematic monitoring and evaluation of juvenile justice outcomes in order to assess whether procedural guarantees are effectively implemented in practice. Reliable data and empirical research are essential for identifying deficiencies and guiding future reforms.

Taken together, these developments demonstrate that ECtHR jurisprudence has played a significant role in shaping contemporary approaches to juvenile justice in Europe. While important progress has been made in strengthening procedural safeguards for minors, continued efforts are required to ensure that these standards are consistently applied in practice and that the criminal justice system responds appropriately to the particular needs and vulnerabilities of children.

5. EU DIRECTIVE 2016/800: HARMONISATION OF PROCEDURAL SAFEGUARDS AND CHALLENGES OF IMPLEMENTATION

The adoption of Directive 2016/800 represents an important step towards harmonising procedural safeguards for children across the European Union (Weyembergh & Brière 2018). Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings was adopted on 11 May 2016 as part of the European Union's broader "Roadmap" aimed at strengthening procedural rights in criminal proceedings. The central objective of the Directive is to establish binding minimum rules ensuring that children—defined as persons under the age of 18—who are suspected or accused in criminal proceedings are able to understand and effectively participate in those proceedings and exercise their right to a fair trial. At the same time, the Directive seeks to contribute to the prevention of reoffending among juveniles and to promote their social reintegration.

This legislative instrument constitutes the fifth measure adopted under Article 82(2)(b) of the Treaty on the Functioning of the European Union (TFEU) within the framework of EU action on procedural rights. Together with other directives adopted under the Roadmap, it contributes to strengthening mutual trust among the judicial systems of Member States. The Directive is legally binding upon Member States (with the exception of Denmark, Ireland and the United Kingdom) and was required to be transposed into national law by 11 June 2019 (Rap et al. 2020).

Directive 2016/800 defines a child as a person under the age of 18 and applies from the moment when such a person becomes a suspect or accused in criminal

proceedings until the final conclusion of those proceedings (Article 2(1)). This means that juvenile suspects benefit from procedural safeguards from the earliest stage of the criminal process, namely when investigative authorities or courts consider them to be suspects, rather than only after formal charges have been brought. Importantly, the Directive clarifies that its safeguards apply from the moment when a child de facto becomes a suspect, even if the authorities have not formally communicated that status. The Court of Justice of the European Union (CJEU) has confirmed that children enjoy the rights guaranteed by the Directive from that moment onward. Furthermore, where a child reaches the age of 18 during criminal proceedings, national legislation cannot automatically terminate the rights associated with juvenile status. The CJEU has ruled that rights such as access to a lawyer may continue to apply beyond the age of majority where this is justified by the circumstances of the case, including the maturity and vulnerability of the individual concerned.

The Directive establishes a number of specialised procedural safeguards tailored to the particular needs of children in criminal proceedings. The most significant obligations imposed upon Member States include the following. Under Articles 4 and 5 of the Directive, children and the holders of parental responsibility must be informed promptly of the rights available to them in criminal proceedings. Such information must be provided in clear and accessible language appropriate to the age and level of understanding of the child. Standardised information forms designed for adult suspects are therefore insufficient; instead, information must be adapted to the child's developmental capacities. In practice, however, scholars and monitoring bodies have noted that information provided to juvenile suspects is frequently inadequate or overly complex. For this reason, the Directive explicitly requires that children receive appropriate information before their first questioning by law enforcement authorities, ensuring that they are aware of their procedural rights at the earliest stage of the proceedings.

One of the most significant safeguards established by the Directive concerns the right of children to legal representation. Article 6 requires that children must have effective access to a lawyer and must be assisted by a lawyer during questioning by police or judicial authorities. Where necessary, a lawyer must be appointed by the state. This provision reflects the recognition that children are particularly vulnerable in the context of criminal investigations and may lack the capacity to understand the implications of procedural decisions without legal assistance. The Directive therefore prohibits the questioning of a child suspect without the presence of a lawyer unless narrowly defined exceptions apply. In addition, Article 18 requires Member States to ensure that children have access to legal aid where necessary to guarantee effective legal representation. National systems must therefore provide mechanisms allowing children to obtain legal assistance free of charge where appropriate. Reports issued by the European Commission indicate that difficulties in practice most frequently arise in relation to this obligation, particularly where delays occur in appointing defence counsel or where restrictive conditions limit access to publicly funded legal assistance.

Another important safeguard concerns the role of parents or guardians in the proceedings. Under Articles 5 and 15 of the Directive, the holder of parental responsibility must be informed as soon as possible that criminal proceedings have been initiated against the child. In addition, parents or guardians generally have the right to accompany the child during procedural stages of the criminal process. This protection reflects the broader recognition within EU law that children require support and guidance when navigating complex legal procedures. It is also consistent with Article 24(3) of the Charter of Fundamental Rights of the European Union, which affirms the right of children to maintain personal relationships with their parents.

Article 7 introduces the requirement that an individual assessment of the child must be conducted. This assessment aims to identify the specific needs, characteristics and vulnerabilities of the child, including physical, psychological and social factors. The purpose of this requirement is to ensure that decisions taken during criminal proceedings—such as the imposition of detention or other procedural measures—are tailored to the child’s individual circumstances. In particular, before placing a child in detention, authorities must consider whether alternative measures would be more appropriate given the child’s age, maturity and personal situation.

The Directive also introduces several additional safeguards designed to protect children in criminal proceedings. These include the protection of privacy (Article 14), the audiovisual recording of questioning where appropriate (Article 9), strict limitations on the use of deprivation of liberty (Article 10), and obligations to notify social services where a child is detained (Article 12). Furthermore, children must have the opportunity to participate effectively in their trial, either by being present in court or through the use of video links where necessary (Article 16).

Taken together, these provisions establish a comprehensive set of minimum procedural safeguards that all Member States must respect when dealing with juvenile suspects. Directive 2016/800 therefore represents a key instrument in the harmonisation of procedural guarantees relating to children in the EU. As several commentators have noted, this Directive marks the first time that EU law has explicitly established binding protections specifically tailored to juvenile suspects, whereas earlier measures within the procedural rights roadmap were framed in more general terms.

5.1. Harmonisation of Standards within EU Criminal Procedure

Directive 2016/800 forms part of a broader legislative framework developed by the European Union to strengthen procedural rights in criminal proceedings (Lenaerts, Gutman, and Nowak, 2023). This framework includes several related instruments, such as Directive 2010/64 on the right to interpretation and translation, Directive 2012/13 on the right to information in criminal proceedings, Directive 2013/48 on the right of access to a lawyer, Directive 2016/343 on the presumption of innocence, and Directive 2016/1919 on legal aid. These measures collectively aim to enhance mutual trust between Member States and to facilitate judicial cooperation in criminal matters, particularly in cross-border contexts. By harmonising core

procedural safeguards, the EU seeks to ensure that individuals enjoy comparable levels of protection regardless of the Member State in which criminal proceedings take place.

Within this framework, Directive 2016/800 plays a particularly important role by addressing the specific vulnerabilities of children in the criminal justice system. The Directive operationalises the principle contained in Article 24 of the EU Charter of Fundamental Rights, which provides that the best interests of the child must be a primary consideration in all actions relating to children. Although similar principles had previously been recognised in international instruments such as the Convention on the Rights of the Child and the Council of Europe Guidelines on Child-Friendly Justice, these instruments lacked the binding force and direct legislative impact of EU law. Directive 2016/800 therefore represents a significant step in transforming these normative principles into enforceable legal obligations within EU criminal procedure.

Despite the progress achieved through the adoption of Directive 2016/800, significant challenges remain in ensuring its effective implementation across the European Union. Member States were required to transpose the Directive into their domestic legal systems within two years of its adoption. According to the European Commission's implementation reports, most Member States formally complied with the transposition deadline. However, the Commission also identified several shortcomings and inconsistencies in the way the Directive has been implemented. One of the principal difficulties arises from structural differences between national criminal justice systems. Some Member States have introduced specialised juvenile justice legislation, while others have incorporated the Directive's provisions into their general codes of criminal procedure. As a result, the practical application of the Directive varies considerably across jurisdictions. In certain cases, national legislation excludes particular types of proceedings—such as protective or administrative measures involving minors—from the scope of criminal procedural safeguards, even though such proceedings may possess a punitive character under established human rights jurisprudence. This divergence creates a risk of uneven application of the Directive across the European Union.

Several practical challenges have also been identified.

First, delays and incomplete transposition have occurred in a number of Member States. The European Commission initiated infringement proceedings under Article 258 TFEU against several countries, including Bulgaria, Croatia, Cyprus and Hungary, for failing to fully implement the Directive within the required timeframe.

Second, key provisions of the Directive have not always been correctly implemented. In particular, problems have been identified in relation to Articles 4 to 6, which govern the rights to information and access to a lawyer. In some Member States, additional safeguards specifically designed for children were not introduced, resulting in situations where juvenile suspects are treated in the same manner as adult suspects. Similarly, the scope of application defined in Article 2 has sometimes been interpreted narrowly by national authorities. In certain legal systems, children do not benefit from the Directive's safeguards until they are formally designated as suspects,

despite the Directive's intention that protections should apply from the moment when authorities treat a person as a suspect in practice.

Third, difficulties have been observed in the practical application of procedural safeguards. For example, some national systems permit the questioning of juvenile suspects before they have consulted with a lawyer if the suspect does not explicitly request legal assistance. Such practices undermine the purpose of Article 6 and weaken the effectiveness of the Directive's protective framework.

For these reasons, the European Commission has emphasised the importance of continued monitoring of the Directive's implementation and has indicated its willingness to pursue infringement proceedings where necessary. Key measures required to improve implementation include specialised training for judges, prosecutors and police officers, the development of child-friendly information materials, and legislative reforms addressing gaps in national procedural frameworks.

5.2. CJEU Case Law and Its Implications

Recent case law of the Court of Justice of the European Union has played an important role in clarifying the scope and interpretation of Directive 2016/800.

In Case C-603/22, *M.S. and Others* (2024), the Court emphasised the fundamental importance of the right of access to a lawyer under Article 6 of the Directive. The Court held that national legislation allowing the questioning of a child suspect in the absence of a lawyer is incompatible with EU law. According to the Court, children must have a practical and effective opportunity to be assisted by a lawyer during questioning, and authorities must ensure the appointment of a lawyer where the child does not have one. The Court further clarified that individuals who were minors at the time criminal proceedings were initiated do not automatically lose the rights provided by the Directive upon reaching the age of 18. Instead, authorities must assess whether continued application of those safeguards remains appropriate in light of the individual's maturity and vulnerability. The judgment also addressed the issue of remedies for violations of procedural rights. The Court held that Article 19 of the Directive does not require national courts to automatically exclude evidence obtained in violation of the right to a lawyer. However, courts must have the ability to examine whether procedural rights were respected and to take any breach into account when assessing the evidential value of statements obtained during questioning.

A related issue was examined in Case C-530/23, *K.P.* (2025), which concerned the procedural rights of vulnerable suspects more generally. In this judgment, the Court interpreted Directive 2013/48 on the right of access to a lawyer and Directive 2016/1919 on legal aid together, emphasising that authorities must identify the vulnerability of suspects before questioning takes place. Where a suspect is considered vulnerable—including children—Member States must ensure immediate access to a lawyer and legal aid where necessary. The Court also held that decisions concerning the assessment of vulnerability and the refusal of legal aid must be reasoned and subject to effective judicial review. These rulings significantly strengthen the procedural rights of children within the EU criminal justice framework

and confirm that the Directive must be interpreted in light of Articles 47 and 48 of the Charter of Fundamental Rights of the European Union, which guarantee the right to an effective remedy and the right to a fair trial.

6. CONCLUSION

This article has examined the constitutional and human rights foundations of juvenile criminal procedure through the lens of five interrelated research questions. Taken together, the analysis demonstrates that the protection of juveniles in criminal proceedings cannot be treated as a marginal or purely technical matter of procedural design. Rather, it is a constitutional requirement grounded in the distinctive vulnerability of children and the corresponding duty of the state to ensure that criminal justice is both fair and child-appropriate in substance, not merely in form.

(1) How do constitutional principles influence criminal procedure when the defendant is a juvenile? Constitutional principles shape juvenile criminal procedure by requiring a substantive, child-sensitive conception of due process. The right to a fair trial operates as a baseline guarantee, but in juvenile cases it is inseparable from constitutional commitments to human dignity, equality, and effective participation. In practice, this entails more than extending adult procedural rights to children. Constitutional reasoning demands adjustments that account for children's limited understanding, heightened susceptibility to pressure, and the long-term consequences of criminal stigmatisation. Moreover, the best interests of the child operates as a guiding constitutional value—whether embedded explicitly in constitutional texts or indirectly through constitutionalised human rights frameworks—requiring decision-makers to prioritise welfare, development, and reintegration. Finally, the principle of proportionality functions as a structural constraint on both sanctions and procedural measures, particularly the use of coercive interventions such as detention, intrusive investigative measures, and public exposure. In short, constitutional principles influence juvenile criminal procedure by converting formal rights into practical guarantees tailored to the child as a rights-holder.

(2) What procedural safeguards are required by international human rights law? International human rights law establishes a coherent set of minimum safeguards, primarily derived from the UNCRC and related UN standards, complemented by Council of Europe instruments and child-friendly justice principles. These safeguards include timely and comprehensible information about rights and accusations; effective legal assistance, particularly at investigative stages; opportunities for the child to participate meaningfully; enhanced privacy protection; and stringent limitations on deprivation of liberty, which must remain a measure of last resort and for the shortest appropriate period. Importantly, these safeguards are not optional “good practice” measures but derive from binding norms requiring states to design juvenile proceedings around the child's needs and capacities. The international framework also confirms that juvenile justice must be oriented towards rehabilitation and reintegration, which has direct procedural implications: processes that prioritise speed, coercion, or public spectacle at the expense of comprehension and participation are incompatible with the underlying purposes of child justice.

(3) How has the European Court of Human Rights interpreted fair trial guarantees in cases involving minors? The ECtHR has developed a distinctive approach to juvenile fairness under Article 6 by insisting that a trial may be formally lawful yet substantively unfair if it does not enable the child's effective participation. The Court's jurisprudence establishes that adaptations such as shorter hearings or supportive courtroom arrangements are insufficient where the overall atmosphere—publicity, formality, intimidation, media scrutiny—prevents meaningful engagement with the proceedings. Strasbourg case law further clarifies that child defendants must be capable of understanding the nature and consequences of the process, communicating with legal representatives, and exercising their defence rights in a real, not theoretical, manner. The Court has also contributed to the development of child-sensitive standards through its case law on detention and vulnerability, rejecting attempts by states to avoid fair trial requirements by re-labelling punitive measures as “educational” or “protective”. The ECtHR's jurisprudence therefore provides a functional test: juvenile proceedings are Convention-compliant only if they are organised and conducted so that the child can realistically participate and be protected from disproportionate harm.

(4) To what extent does EU Directive 2016/800 strengthen procedural protections for juvenile suspects? Directive 2016/800 significantly strengthens juvenile procedural protection by translating child-sensitive fair trial guarantees into binding, operational minimum rules across the EU. It consolidates and systematises protections that existed in fragmented form across national laws and soft-law instruments, establishing clear obligations regarding access to a lawyer, information rights adapted to children, parental involvement, individual assessment, privacy safeguards, and strict limits on detention. Importantly, the Directive reinforces the idea that juvenile safeguards apply from the earliest stage—when a child becomes a suspect in practice—and not merely after formal charging. Recent CJEU case law has further clarified that national rules allowing questioning without a lawyer, or conditioning legal assistance on the child's request, are incompatible with EU law. The Directive thereby advances harmonisation and raises the floor of protection, while also strengthening mutual trust in judicial cooperation by ensuring more consistent procedural guarantees for children across Member States.

(5) What challenges exist in ensuring effective implementation in practice? The analysis also confirms that implementation remains the decisive weak point. Several persistent challenges can be identified. First, there is normative fragmentation: Member States often transpose EU requirements into general criminal procedure codes without creating coherent child-specific procedures, which risks the continued application of adult-oriented practices. Secondly, institutional and resource constraints—including insufficient duty-lawyer schemes, delays in appointing counsel, and limited availability of specialists (psychologists, social workers, trained youth justice professionals)—undermine the practical availability of safeguards. Thirdly, professional culture and training deficits remain acute: police and prosecutors may prioritise efficiency and confession-led investigation, while judges may treat older minors as quasi-adults, thereby diluting the child-specific logic of

international standards. Fourthly, there is frequently a gap between formal safeguards and child comprehension: rights may be “given” in writing but not understood, rendering participation illusory. Finally, monitoring and remedies are often inadequate; even where violations occur (for example, questioning without legal assistance), procedural systems may lack effective corrective mechanisms capable of preventing repetition and ensuring accountability.

The central implication of these findings is that stronger constitutional protection is necessary to secure juvenile procedural rights as enforceable guarantees rather than aspirational standards. While international and EU frameworks provide robust normative content, constitutional law remains crucial because it structures domestic institutional duties: it can require child-specific procedures, impose proportionality constraints on coercive measures, and ensure that effective participation is treated as a constitutional condition of fairness. A stronger constitutional approach should therefore treat juvenile safeguards not as discretionary adaptations but as legally mandated requirements derived from the constitutional status of children as rights-holders and the state’s heightened duties of protection.

Overall, the article supports a clear conclusion: European juvenile justice is increasingly governed by sophisticated constitutional and human rights standards, yet these standards achieve their purpose only when they are translated into institutional practice. A child’s right to a fair trial must therefore be understood as a requirement of effective, child-appropriate justice, anchored in constitutional commitments, operationalised through EU harmonisation, and guaranteed through practical safeguards that function in real-world criminal proceedings.

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УСТАВНЕ ГАРАНЦИЈЕ МАЛОЛЕТНИКА У КРИВИЧНОМ ПОСТУПКУ: ПРОЦЕСНЕ ГАРАНЦИЈЕ И СТАНДАРДИ ЉУДСКИХ ПРАВА

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Сажетак: *Заштита малолетника у кривичном поступку представља значајно питање на пресеку уставног права, кривичног процесног права и међународног права људских права. Деца која се нађу у систему кривичног правосуђа налазе се у посебно осетљивом положају, те им је неопходно обезбедити процесне гаранције прилагођене њиховом узрасту, зрелости и психолошком развоју. Аутори анализирају уставне и међународноправне основе заштите процесних права малолетника у кривичном поступку у оквиру европског правног простора. У раду разматрају више кључних питања: на који начин уставна начела утичу на кривични поступак када је окривљени малолетник; које процесне гаранције произлазе из међународних стандарда људских права; како Европски суд за људска права тумачи право на правично суђење у предметима који се односе на малолетнике; у којој мери Директива (ЕУ) 2016/800 доприноси усклађивању процесних гаранција за малолетне осумњичене; као и који изазови постоје у практичној примени ових стандарда у националним правним системима.*

У раду најпре анализирају уставне основе малолетничког правосуђа, посебно начело правичног суђења, начело сразмерности и принцип најбољег интереса детета. Затим разматрају кључне процесне гаранције, укључујући право на правну помоћ, прилагођавање поступка потребама малолетника, заштиту од лишавања слободе и право на ефективно учешће у поступку. Посебна пажња посвећена је пракси Европског суда за људска права, као и пракси Суда правде Европске уније у тумачењу Директиве 2016/800. Закључују да су европски правни инструменти значајно допринели јачању процесних гаранција

малолетника, али да и даље постоје бројни изазови у њиховој доследној примени. Јачање уставних гаранција, унапређење професионалне обуке и развој поступака прилагођених деци представљају кључне услове за обезбеђивање правичног и хуманог поступања према малолетним учесницима кривичног поступка.

Кључне речи: *малолетничко правосуђе, правично суђење, процесне гаранције, Европски суд за људска права, Директива 2016/800, права детета*