

THE PROTECTION OF MINORS IN CRIMINAL PROCEEDINGS: THE CASE OF ALBANIA

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Abstract: *The protection of minors in criminal proceedings has developed from a predominantly welfare-oriented concern into a distinct field of human-rights and procedural law. Contemporary child justice requires states not merely to shield children from the harmful effects of criminal proceedings, but to design procedures around their age, maturity, dignity, participation and prospects of rehabilitation. Albania represents an especially useful case study because its legal order has undergone a substantial transformation since 2017, most notably through Law No. 37/2017, the Code of Criminal Justice for Children. The Code introduced a specialised framework for children in conflict with the law and for child victims and witnesses, incorporating principles such as the best interests of the child, participation, proportionality, diversion, restorative justice, specialised professionals and detention as a measure of last resort.*

This article examines the Albanian framework against the United Nations Convention on the Rights of the Child, General Comment No. 24, the European Convention on Human Rights, relevant European Court of Human Rights jurisprudence, and the Council of Europe Guidelines on Child-Friendly Justice. It analyses the procedural safeguards applicable to children suspected or accused of crime, including legal assistance, information, participation, psychological assistance, individual assessment, privacy, questioning, arrest and detention, and the availability of diversion and restorative measures. It also considers the protection of children as victims and witnesses.

The central argument is that Albania has constructed a comparatively sophisticated normative framework, but the decisive challenge has moved from legislation to implementation. Recent assessments continue to identify weaknesses in resources, specialised services, detention, inter-institutional coordination, data systems, legal aid and the consistent application of the best-interests principle. The article therefore concludes that Albania's next phase of reform should concentrate on implementation capacity, community-based alternatives, specialised legal and psychosocial services, effective monitoring, and a stronger culture of child participation.

Keywords: *child justice; juvenile justice; Albania; minors; criminal proceedings; best interests of the child; diversion; restorative justice; detention; child victims; child-friendly justice.*

1. INTRODUCTION

The manner in which a criminal justice system treats children is an important measure of the quality of its commitment to human rights. Children who enter criminal proceedings occupy a particularly vulnerable position: they are developing persons whose cognitive, emotional and social capacities differ from those of adults, yet they are confronted by institutions possessing coercive powers over liberty, family life, education and reputation. A procedure that is formally fair for an adult can therefore be substantively unfair for a child if it fails to account for age, maturity, communication abilities and developmental needs.

International law has gradually moved away from the conception of the juvenile offender as an object of correction towards a rights-bearing child who must participate in decisions affecting him or her. The Convention on the Rights of the Child (CRC) provides the foundational framework. Articles 3, 12, 37 and 40 require the best interests of the child, participation, dignity, liberty and reintegration to shape the administration of child justice. General Comment No. 24 of the UN Committee on the Rights of the Child further emphasises diversion, restorative approaches and non-custodial measures, while insisting that detention must be a last resort and for the shortest appropriate period.¹

The European human-rights system has developed a complementary body of standards. The European Court of Human Rights has held that children facing criminal charges must be dealt with in a manner taking full account of their age, maturity and intellectual and emotional capacities. In *T v United Kingdom* and *V v United Kingdom*, the Court linked effective participation under Article 6 of the European Convention on Human Rights to procedures adapted to children rather than simply procedures formally identical to adult trials.²

Albania is an important example of this transformation. Before 2017, safeguards for children were dispersed through the Criminal Code, Criminal Procedure Code and child-protection legislation. Law No. 37/2017, the Code of Criminal Justice for Children (CCJC), represented a structural change. It entered into force in 2018 and established specific rules covering investigation, prosecution, trial, sanctions, rehabilitation, reintegration, and the treatment of children as victims or witnesses.³

The article assesses whether this legislative transformation has translated into effective protection. It argues that Albania's principal difficulty is no longer the absence of a modern legal philosophy. Rather, the problem is the distance between the statutory model and everyday institutional practice. The 2023 concluding observations of the Committee on the Rights of the Child welcomed Albania's reforms but still called for more resources, greater use of diversion and non-custodial measures, shorter detention and systematic training.⁴ This tension between normative progress and implementation is the central theme of the Albanian case.

2. THE INTERNATIONAL AND EUROPEAN LEGAL FRAMEWORK

The international protection of minors in criminal proceedings is principally grounded in the Convention on the Rights of the Child. Article 1 defines a child as every human being below eighteen unless majority is attained earlier under national law. Article 3 establishes the best interests of the child as a primary consideration in all actions concerning children undertaken by courts, administrative authorities and other institutions. Article 12 protects the child's right to express views freely in matters affecting the child, with those views given due weight according to age and maturity.

Article 37 is particularly important in criminal proceedings. It prohibits torture and cruel, inhuman or degrading treatment, rejects arbitrary detention and provides that arrest, detention or imprisonment of a child must be lawful, used only as a measure of last resort and for the shortest appropriate period. Article 40 recognises the child's right to treatment consistent with dignity and worth and directed towards reintegration and the assumption of a constructive role in society. It also guarantees core fair-trial rights, including presumption of innocence, information about charges, legal assistance, determination of the case without delay, freedom from compelled self-incrimination and review of conviction.

General Comment No. 24 (2019) represents the most developed contemporary interpretation of these provisions. The Committee calls for a comprehensive child-justice policy combining prevention, early intervention, diversion, restorative justice and specialised procedures. It encourages states to establish a minimum age of criminal responsibility of at least fourteen and warns against excessive reliance on deprivation of liberty.⁵ Importantly, the General Comment rejects the idea that children should merely be processed more gently within adult systems. Child justice should be designed as a distinct system in which the child's developmental position is legally relevant.

European standards reinforce this approach. The Council of Europe Guidelines on Child-Friendly Justice identify accessibility, age-appropriateness, speed, diligence, participation, dignity, privacy and due process as core characteristics of child-friendly justice.⁶ The Guidelines apply before, during and after judicial proceedings and encourage alternatives to formal adjudication whenever these serve the child's best interests.

The European Court of Human Rights has made effective participation a central element of Article 6. In *V v United Kingdom*, concerning an eleven-year-old defendant, the Court held that procedures must take full account of age, maturity and intellectual and emotional capacities and must promote the child's ability to understand and participate. In *T v United Kingdom*, the Court similarly examined whether the formal public trial environment was excessively intimidating for a very young defendant.⁷ Later jurisprudence, including *Panovits v Cyprus*, has strengthened the importance of access to legal assistance for minors at early stages of police questioning.

These standards establish a clear benchmark for Albania: child justice must be protective without becoming paternalistic, participatory without becoming coercive, and proportionate without losing sight of public safety. The relevant question is therefore not simply whether Albania has enacted special rules, but whether those rules produce a genuinely different experience of criminal justice for children.

3. THE ALBANIAN LEGAL FRAMEWORK

Albania's constitutional framework provides an important foundation for special protection. Article 54 of the Constitution recognises that children, young people, pregnant women and new mothers have the right to special protection by the state. The constitutional principle is complemented by Albania's obligations under the CRC and the European Convention on Human Rights, both of which form part of the broader human-rights framework against which domestic criminal procedure must be interpreted.

The central legislative instrument is Law No. 37/2017, the Code of Criminal Justice for Children. Article 1 establishes special rules concerning criminal responsibility, investigation, prosecution, trial, execution of criminal sanctions, rehabilitation and other measures involving children in conflict with the law, as well as child victims and witnesses. The Code also contains certain provisions applicable to young adults aged eighteen to twenty-one where the offence was committed while the person was a child.

The Code's definitions demonstrate the breadth of the Albanian approach. A child is a person under eighteen; a child in conflict with the law is a person who has reached the age of criminal responsibility but is under eighteen and is suspected, charged or convicted; a child victim is a person under eighteen who has suffered moral, physical or material damage from an offence; and a child witness is a person under eighteen who may have information about an offence. The Code therefore avoids restricting child justice to the accused and recognises that children can be harmed by criminal proceedings even when they have committed no offence.

The minimum age of criminal responsibility under the Code is fourteen for felonies and sixteen for misdemeanours defined by the Criminal Code. This structure is broadly compatible with the modern European approach, although the distinction between felonies and misdemeanours means that the practical application of criminal responsibility depends on offence classification. Children below the applicable threshold should not be subjected to criminal proceedings; instead, child-protection structures are expected to respond to their needs.

A particularly important provision is Article 10, which establishes the best interests of the child as a primary consideration in every decision and activity undertaken under the Code. The decision-maker must consider physical and psychological development, education, health, security, family relations, the child's views, history of abuse or neglect, and the capacity of

caregivers to meet the child's needs. This is stronger than a general declaration: it creates a framework for individualised decision-making.

The Code is therefore best understood as a rights-based procedural statute rather than simply a juvenile sentencing law. Its purpose is not only to determine guilt but also to prevent reoffending, promote rehabilitation and reintegration, protect victims and witnesses, and reduce the secondary harm caused by contact with the criminal justice system.

4. CORE PRINCIPLES OF CHILD JUSTICE IN ALBANIA

The first principle is the best interests of the child. Under Article 10 of the CCJC, this principle must guide every competent authority. Its practical importance lies in requiring individual assessment rather than automatic application of adult criminal-justice assumptions. A prosecutor deciding whether to prosecute, a judge considering detention, or a court selecting a sanction should consider the child's development, family circumstances, education, psychological condition and expressed views.

The second principle is participation. A child cannot be meaningfully protected if he or she is treated as a passive object of proceedings. Participation requires information in language appropriate to age and maturity, an opportunity to be heard, and a genuine possibility that the child's views will influence decisions. The Council of Europe has similarly emphasised that children should understand what is happening and be able to participate effectively. The European Court's case law shows why this matters: formal presence in a courtroom does not equal effective participation.

Third is proportionality. The CCJC requires responses to offending to be adapted to the child's circumstances and the seriousness of the offence. Proportionality must therefore operate together with individualisation. A serious offence does not eliminate the child's rights, and a child's age and developmental circumstances cannot be ignored simply because public pressure demands punishment.

Fourth is rehabilitation and reintegration. Article 2 of the CCJC expressly identifies reintegration, resocialisation and rehabilitation as central objectives. This reflects Article 40(1) CRC, which requires responses to offending to promote the child's constructive role in society. The rehabilitative principle also has a practical criminological justification: exposing children to unnecessarily punitive institutions can reinforce rather than reduce criminal identities.

Fifth is the principle of minimum intervention. Diversion and restorative justice are not merely leniency mechanisms. They are structural alternatives designed to keep children away from the damaging effects of formal criminal proceedings where a proportionate response can be achieved outside them. The CCJC provides for restorative justice, mediation, warnings, counselling, mandatory measures, foster care and other diversionary responses.¹³

Finally, confidentiality and privacy are essential. Children are particularly vulnerable to stigma and reputational harm. Publication of identifying information can affect education, employment, family relationships and future reintegration long after proceedings have ended. Child-friendly justice therefore requires a presumption that privacy should be protected unless a compelling legal reason justifies disclosure.

Taken together, these principles demonstrate that Albanian child justice is not simply a separate procedural chapter. It represents a different conception of the purposes of criminal law when the defendant is a child: accountability remains relevant, but accountability is pursued through education, restoration, rehabilitation and reintegration rather than punishment as an end in itself.

5. PROCEDURAL SAFEGUARDS FOR CHILDREN SUSPECTED OR ACCUSED OF CRIME

A central feature of the Albanian system is mandatory legal defence. The ordinary Criminal Procedure Code already recognises mandatory defence for defendants under eighteen, while the CCJC strengthens the specialised character of representation. The rationale is straightforward: children may not understand the legal significance of silence, admissions, procedural choices or evidence in the same way as adults. Legal assistance must therefore be effective, not merely nominal.

The right to information is equally important. Information must be understandable and adapted to the child's age and maturity. The objective is not to reproduce statutory language but to enable the child to comprehend the accusation, available procedural options, consequences of decisions, rights of appeal and the purpose of each procedural step. This is consistent with Directive (EU) 2016/800, although the Directive is binding on EU Member States rather than Albania, and therefore functions principally as a comparative benchmark for Albania's European integration.

Psychological assistance constitutes another important safeguard. Albanian law recognises the need for psychologists and other specialised professionals to participate in child proceedings. This is especially significant during questioning and for children whose developmental, psychological or trauma-related circumstances may affect communication. The presence of a psychologist should not, however, become a purely formal requirement. The professional must be independent, appropriately trained and capable of identifying distress, suggestibility and communication difficulties.

Individual assessment is essential to the implementation of the best-interests principle. The CCJC envisages assessment of the child's personal, family, social and psychological circumstances. Such assessment should inform decisions about diversion, security measures, sanctions and rehabilitation. It should also prevent the criminal process from becoming disconnected from the causes of offending. Poverty, school exclusion, family violence, substance dependence,

exploitation or peer pressure may be relevant not because they excuse offending automatically, but because they determine what response is likely to protect society and prevent recurrence.

The child's right to be heard must extend throughout proceedings. It should not be reduced to a single judicial interview. A child should be able to express views about detention, diversion, mediation, placement, educational arrangements and rehabilitation. The Albanian framework is therefore consistent with the CRC's participatory model, but its effectiveness depends heavily on professional culture.

Specialisation is another requirement. Judges, prosecutors, police officers, lawyers, psychologists, social workers, probation officers and detention personnel who work with children need specific training. The CRC Committee expressly recommended systematic training for Albanian justice professionals in its 2023 concluding observations.¹⁴ Without specialised capacity, even carefully drafted legislation may be implemented through adult-oriented assumptions.

6. QUESTIONING, EVIDENCE AND EFFECTIVE PARTICIPATION

The investigative stage is often the point at which children's procedural rights are most vulnerable. Police questioning can occur before a child has fully understood the seriousness of the situation or obtained effective legal advice. The psychological pressure associated with authority, fear of parents or institutions, and desire to please adults can affect the reliability and voluntariness of statements.

European human-rights law has recognised the particular vulnerability of minors during police questioning. In *Panovits v Cyprus*, the European Court considered the absence of effective legal assistance during police questioning and emphasised the special vulnerability of a minor confronted with criminal proceedings. The case illustrates a broader proposition: the earlier a coercive state process reaches a child, the more important effective safeguards become.

Albanian law provides specific safeguards concerning the questioning of children. The CCJC and Criminal Procedure Code seek to avoid harmful repetition and adapt questioning to the child's circumstances. For child victims and witnesses, special arrangements may include psychological assistance, audiovisual recording and procedures designed to prevent direct confrontation with the accused where such contact could cause harm.

The protection of evidence must be balanced with the rights of the defence. Child-friendly procedures cannot justify unreliable or unchallengeable evidence. Article 6 of the ECHR requires the defence to have an adequate opportunity to contest evidence, while child-sensitive procedure requires that such participation occur without unnecessary psychological harm. The correct solution is therefore procedural adaptation rather than abandonment of adversarial fairness.

The Albanian framework provides an example of this balance. Protective measures for child victims and witnesses can include avoiding direct contact with the accused, restricting the

accused's contact with the child, keeping the child's location confidential and using other appropriate measures.¹⁵ These mechanisms recognise that a child's safety may be jeopardised by the very process intended to establish the truth.

A further concern is repeated interviewing. Every additional interview may expose a child victim to anxiety, memory contamination or secondary victimisation. For that reason, early audiovisual recording, properly conducted forensic interviewing and carefully controlled judicial use of earlier statements can be preferable to repeated live questioning.

The principle should be that child-sensitive evidence procedures protect the integrity of testimony while preserving the defence's ability to test reliability. A system that protects children by eliminating all scrutiny risks unfairness to defendants; a system that insists on adult-style confrontation risks traumatising children. Albanian law has moved towards the middle ground, but effective implementation requires specialist interviewers, suitable facilities, consistent protocols and judicial willingness to use the protective mechanisms already available.

7. CHILD VICTIMS AND WITNESSES OF CRIME

The protection of minors in criminal proceedings cannot be reduced to the rights of children accused of offences. Children who are victims or witnesses may experience the criminal process as a continuation of the harm already suffered. Sexual abuse, trafficking, domestic violence and other offences can produce trauma that is aggravated when the child must repeatedly recount events, encounter the accused or confront intimidating institutions.

The CCJC expressly applies to child victims and witnesses. This is a major conceptual improvement because it places their procedural protection within the same child-justice framework. The Code aims to prevent secondary victimisation and recognises the need for protection, psychological assistance and adapted procedures.

Article 37 is particularly significant. Where a child victim or witness is at risk, competent authorities may take measures to avoid direct contact with the accused, request restriction orders, seek security measures preventing contact, protect the child's location and adopt other appropriate protective measures. The court can also act *ex officio* in specified circumstances. This is an important recognition that protection cannot always depend on a child being able to articulate the danger.

Privacy is another essential safeguard. The identities, images and personal information of child victims and witnesses require heightened protection. Publicity can produce stigma, retaliation or social pressure and may discourage children from reporting crime. Child-friendly justice therefore requires confidential procedures, controlled disclosure and careful treatment of records.

The psychological dimension is equally important. A psychologist's presence should not be understood simply as a procedural accessory. Children may need preparation before interviews, emotional support during proceedings and follow-up afterwards. Where the child has experienced

violence or sexual exploitation, trauma-informed practice is particularly important. The Committee on the Rights of the Child has urged Albania to ensure prompt investigation of abuse and degrading treatment using child-friendly and multidisciplinary approaches and to prevent re-victimisation.

Another issue is access to remedies. A child victim may need information about compensation, protective orders, counselling, legal aid and available social services. Legal rights are ineffective if children and caregivers do not understand how to activate them.

Albania's approach is therefore strongest where the CCJC integrates criminal procedure with child protection. The challenge is institutional coordination. Police, prosecutors, courts, child-protection units, health professionals, schools and social services may each possess part of the necessary response. A child-friendly system must ensure that the child experiences these institutions as a coordinated protective network rather than a sequence of disconnected bureaucracies.

8. ARREST, PRE-TRIAL DETENTION AND DEPRIVATION OF LIBERTY

Detention is one of the most sensitive areas of child justice. International standards treat deprivation of liberty as exceptional because detention can interrupt education, family relationships and social development, expose children to harmful peer environments and produce long-term stigma. Article 37(b) CRC requires detention to be used only as a measure of last resort and for the shortest appropriate period.

The Albanian CCJC expressly incorporates this approach. The system provides special procedural safeguards when a child is arrested or detained. Article 85 requires the prosecutor, where immediate release is not ordered, to seek judicial validation within forty-eight hours. Failure to meet the deadline renders the arrest or detention powerless unless the court has assessed the matter and imposed a security measure. The judge must hear the child directly.¹⁸

These safeguards are important because prompt judicial scrutiny is an essential protection against arbitrary detention. Yet the more important question is whether detention is necessary in the first place. A system can comply with a forty-eight-hour deadline and still overuse detention if prosecutors and courts treat custody as the default response to serious allegations.

Available evidence shows substantial improvement compared with the situation preceding the CCJC, but continuing problems. UNICEF reported that the number of children aged fourteen to seventeen detained in institutions fell from thirty-nine in 2017 to nineteen in 2021, while the number sentenced to deprivation of liberty by first-instance courts declined from 117 in 2018 to 43 in 2019. These figures indicate the positive impact of reform, but they do not establish that detention is consistently used only as a last resort.

The European Commission has also identified pre-trial detention as a continuing concern. Its assessment noted that pre-trial detention remained the principal reason for deprivation of liberty

for children in conflict with the law and that prolonged detention could harm rehabilitation and reintegration. The 2023 CRC Committee similarly urged Albania to ensure that detention is a last resort, used for the shortest possible period and regularly reviewed.

The policy implication is clear: detention reform cannot be separated from the development of community-based alternatives. Probation, supervised community measures, family support, psychological treatment, education and restorative programmes must be available at sufficient scale to give judges realistic alternatives.

Conditions of detention also matter. Where detention is unavoidable, children must have access to education, healthcare, psychological support, family contact and preparation for release. The objective is not simply humane custody; it is continuity of development and preparation for reintegration.

9. DIVERSION AND RESTORATIVE JUSTICE

Diversion is perhaps the clearest expression of the rehabilitative philosophy of the Albanian CCJC. Rather than automatically subjecting every child suspected of an offence to prosecution and trial, the system allows competent authorities to divert cases into measures that address the behaviour, repair harm and support reintegration.

Article 62 lists possible diversion measures including restorative justice and mediation programmes, counselling of the child and family, verbal or written warnings, mandatory measures and foster care. Measures may be combined and must be based on an individual assessment. Importantly, the Code prohibits obligations that humiliate the child, damage dignity, exclude the child from ordinary education or employment, or harm physical or mental health.

Conditional diversion under Article 61 allows the prosecutor to suspend an investigation where the child requests and guarantees fulfilment of specified obligations, such as compensation, restorative justice, mediation, community activities or treatment for addiction. Successful fulfilment results in definitive dismissal of the proceedings.

Mediation similarly depends on free consent from both the child and the injured party. The involvement of legal representatives, psychologists, child-protection personnel and prosecutors can support a process that is informed and safe rather than coercive.

The theoretical justification for diversion is supported by international standards. General Comment No. 24 calls on states to increase diversion and non-custodial responses. Council of Europe standards likewise encourage mediation and restorative measures at different stages of juvenile proceedings. Diversion can protect the child from unnecessary criminalisation while still requiring accountability.

However, diversion should not become an informal form of punishment without safeguards. A child must understand the allegation, the proposed obligations and the consequences of accepting

or refusing diversion. Consent must be genuinely voluntary. There must also be safeguards against unequal outcomes: children from poorer families should not be disadvantaged because they cannot compensate a victim financially or access private services.

Albanian scholarship has begun examining this issue. Etalon Peppo's 2023 study describes diversion as a mechanism for dealing with children outside conventional prosecution and trial and assesses its role as an alternative to traditional justice. The research reflects a broader shift in Albanian legal scholarship from asking whether the CCJC is modern to asking how its mechanisms function.

The major practical challenge is service capacity. Diversion is meaningful only when prosecutors and courts have credible programmes to which children can be referred. If restorative services, counselling, probation and community programmes are unavailable, formal prosecution may become the path of least resistance. Albania should therefore treat investment in diversion infrastructure as a core component of criminal-justice policy rather than as an optional social programme.

10. LEGAL AID, SPECIALISATION AND INSTITUTIONAL COORDINATION

A sophisticated legal framework requires institutions capable of implementing it. Child justice is inherently multidisciplinary. A prosecutor cannot determine the most appropriate response to a child without information about education, family circumstances, psychological development, health and social environment. Likewise, a judge cannot make a genuinely individualised detention or sentencing decision if the available information is limited to the police case file.

Albania's reforms recognise this reality. The CCJC identifies judges, prosecutors, judicial police officers, defence lawyers, psychologists, social workers, mediators, child-protection personnel, probation officers and detention personnel as participants in child justice, with an expectation of training and specialisation.²⁵ The Ministry of Justice has also developed secondary legislation concerning specialised judges, procedural representatives, data systems, diversion and education in institutions for minors.

Legal aid is especially important. Children are legally dependent and frequently lack independent financial resources. Albania's Law No. 111/2017 on Legal Aid Guaranteed by the State strengthened access to free legal aid for children in contact with the justice system. Yet the 2023 CRC Committee specifically recommended additional financial and human resources for primary and secondary legal aid in the context of child justice.²⁷ This demonstrates the difference between legal entitlement and practical accessibility.

Procedural representation also deserves attention. The interests of a child are not always identical to those of a parent. A parent may have interests connected with family reputation, financial liability or the underlying circumstances of the offence. A child therefore needs an independent

mechanism capable of representing the child's procedural interests when parental involvement is inadequate or potentially conflicted.

Institutional coordination is another recurring challenge. The 2022–2026 Justice for Children Strategy seeks to build a system extending beyond criminal justice towards equitable access to justice and stronger cooperation among national and local institutions.²⁸ The strategy identifies four broad outcomes: prevention; a legal and professional framework for child-friendly justice; access to justice; and criminal justice focused on preventing re-involvement, resocialisation and reintegration.

The strategy is significant because it recognises that juvenile offending cannot be addressed by courts alone. The causes of offending may arise in family, school, social protection or community environments. Effective prevention therefore requires coordination between justice and social institutions.

For Albania, specialisation should now move beyond formal designation. A judge assigned to children's cases should have continuous training and practical resources; police officers should understand child interviewing; prosecutors should be trained in diversion; lawyers should understand developmental psychology; and probation and social services should have adequate caseloads. The effectiveness of the CCJC will ultimately depend on these professional ecosystems.

11. IMPLEMENTATION: PROGRESS AND PERSISTING GAPS

The Albanian experience since 2017 demonstrates a common phenomenon in human-rights reform: legislation can change faster than institutions. The adoption of the CCJC was a major normative achievement, but its implementation requires infrastructure, funding, training, data and changes in professional culture.

The 2019 evaluation prepared for UNICEF identified significant structural gaps, including the need for administrative-cultural change, capacity building, adapted infrastructure, community services and stronger inter-disciplinary coordination. It also reported that the closure of three juvenile pre-trial detention sections in 2019 followed concerns that they did not meet international and national standards. Kavaja became the principal specialised institution for minors in detention.

More recent monitoring suggests both progress and unfinished work. The Ministry of Justice's monitoring material for 2024 identifies challenges including assessing re-involvement in crime after diversion, maintaining and updating child-justice data dashboards, and limited access to integrated data systems. The same monitoring report recorded that 58 per cent of the strategy's 64 measures were fully implemented, 31 per cent partially implemented and 11 per cent not implemented during the reporting period. These figures should be treated as implementation

indicators rather than a direct measure of children's experiences, but they illustrate that substantial work remains.

The 2025 European Commission assessment similarly notes that Albania's juvenile justice framework aligns with international standards while gaps persist in ensuring a child-friendly legal process and coordinated implementation at all levels.³¹ This is an important finding. It confirms that the central problem is no longer whether Albania possesses a modern statutory framework; it is whether institutions apply it consistently.

The CRC Committee's 2023 recommendations are particularly useful as an implementation agenda. They call for adequate resources for reform and legal aid; increased diversion, mediation and counselling; greater use of probation and community service; detention only as a last resort; improved detention conditions; and systematic training. These recommendations closely correspond to the practical weaknesses identified by Albanian institutions themselves.

Another implementation concern is data. Reliable, disaggregated information is necessary to determine how many children are arrested, diverted, detained, convicted, subjected to community measures, receive legal aid, or reoffend. Without reliable data, policymakers cannot assess whether reforms are reducing unnecessary criminalisation or merely changing terminology.

The implementation question should therefore be approached as a rights issue. Under Article 4 CRC, legislative commitments require appropriate measures to implement rights. For Albania, this means that budgetary allocations, staffing, infrastructure and monitoring are not secondary administrative details; they are conditions for making statutory rights real.

12. EUROPEAN COURT OF HUMAN RIGHTS AND THE ALBANIAN CASE

Although the European Court of Human Rights has not developed a separate Albania-specific juvenile-justice jurisprudence comparable to its extensive case law against some other states, its general principles are directly relevant to Albanian proceedings. Albania is bound by the European Convention and domestic authorities must interpret procedural rights consistently with Strasbourg standards.

The most important cases concern effective participation. In *V v United Kingdom*, the Court considered proceedings against an eleven-year-old and concluded that a child facing criminal charges must be dealt with in a manner taking full account of age, maturity and intellectual and emotional capacities. It was insufficient that the domestic procedure had merely been modified at the margins; the court had to ensure that the child could understand and participate effectively.

T v United Kingdom similarly concerned a ten-year-old defendant and raised questions about the intimidation created by an adult-style public trial. The cases demonstrate that Article 6 is not satisfied by mechanically applying adult procedural rules to children. The concept of a fair hearing is context-sensitive.

Panovits v Cyprus is especially relevant to police questioning. The case illustrates the importance of legal assistance at an early stage when a minor is confronted by police authorities. The vulnerability of a child can make apparently voluntary decisions less reliable than those of an informed adult. This reinforces the Albanian emphasis on mandatory defence and specialised assistance.

Blokhin v Russia, a Grand Chamber case concerning a minor deprived of liberty, further illustrates the interaction between child status, liberty, procedural fairness and treatment. The Court emphasised the need to view detention and proceedings involving children through the Convention's broader protection of dignity and procedural rights.

These cases have two implications for Albania. First, child-friendly justice is not merely a policy preference. When procedures prevent a child from understanding or participating effectively, Convention rights may be engaged. Second, procedural adaptation must be substantive. A courtroom may technically be open to a child, but if the language, pace, atmosphere, legal representation or questioning method makes meaningful participation impossible, the formal existence of a hearing is insufficient.

Albanian courts should therefore use Strasbourg jurisprudence as an interpretive resource when applying the CCJC. The best-interests principle and Article 6 should not be treated as competing values. Properly understood, they reinforce each other: adapting proceedings to a child's capacities strengthens rather than weakens fair-trial guarantees.

This approach is consistent with the Council of Europe Guidelines, which describe child-friendly justice as accessible, age-appropriate, speedy, diligent, adapted to children's needs, respectful of due process, participation, privacy, dignity and integrity. The Albanian framework is capable of meeting these standards; the challenge is consistent judicial practice.

13. CRITICAL ASSESSMENT OF THE ALBANIAN MODEL

The Albanian CCJC should be regarded as a substantial reform rather than a cosmetic amendment. It incorporates the language and institutions of modern child justice and moves decisively away from treating children as smaller versions of adult defendants. Its strengths include a dedicated code, explicit best-interests principle, recognition of participation, specialised professionals, mandatory defence, psychological assistance, diversion, restorative justice, child-victim protection and restrictions on detention.

Its principal weakness is implementation capacity. A sophisticated statute may create unrealistic expectations if the necessary services do not exist outside major urban centres. A prosecutor cannot meaningfully divert a child if there is no appropriate programme; a judge cannot select community supervision if probation lacks staff; and legal aid cannot be effective if specialised lawyers are unavailable.

A second issue is the relationship between protection and participation. Child-friendly justice must not become over-protective. Children should not be excluded from hearings, decisions or information merely because adults believe the process is difficult. The correct approach is supported participation: explain, prepare, assist and adapt. This is consistent with Article 12 CRC and the Council of Europe model.

Third, the system must avoid unequal access. Children in poverty, children from rural areas, children with disabilities, migrant children and other vulnerable groups may encounter additional barriers. The CRC Committee has highlighted discrimination affecting disadvantaged groups in Albania and has repeatedly stressed the need for adequate resources and accessible services. Child justice should therefore be assessed through an equality lens as well as a procedural one.

Fourth, diversion requires safeguards against net-widening. A diversion programme can be beneficial, but if children who would otherwise have received no formal intervention are placed under intrusive obligations, diversion may actually increase state control. The proper question is whether diversion replaces a more punitive or intrusive response, not whether every child receives some intervention.

Fifth, detention must remain exceptional in practice. Declining detention numbers are encouraging, but a small absolute number does not prove compliance if children are detained for long periods or if detention disproportionately affects vulnerable groups. Regular judicial review and meaningful community alternatives are therefore essential.

Finally, Albania needs stronger evaluation. Data should track outcomes, not merely activities: duration of detention, use of diversion, completion rates, reoffending, school participation, access to legal aid, psychological services and children's own experiences. The 2024 monitoring report's concern about data-system access demonstrates the importance of this issue.

Overall, Albania has largely won the legislative argument. The next stage is to win the institutional argument. The measure of success should be the child's experience: whether the child understands the process, has a lawyer, is heard, is protected from unnecessary trauma, remains connected to education and family where possible, avoids detention when alternatives suffice, and leaves the system with a realistic path towards reintegration.

14. RECOMMENDATIONS FOR FURTHER REFORM

First, Albania should strengthen community-based alternatives to detention and prosecution. Probation, counselling, family support, educational programmes, restorative justice and mediation should be available throughout the country, including outside Tirana and other major centres. The existence of a statutory alternative is insufficient if there is no practical programme to which a child can be referred.

Second, legal aid should be treated as a specialised child-justice service. Lawyers representing children should receive regular training in developmental psychology, trauma, interviewing and

diversion. The state should monitor not only whether counsel was appointed but whether representation was timely, confidential, continuous and effective.

Third, professional specialisation should become continuous rather than episodic. Police, prosecutors, judges, lawyers, psychologists, social workers and probation officers should receive coordinated training based on common child-justice standards. Training should include participation, disability, trauma, gender sensitivity, discrimination, online offending and child victims of violence.

Fourth, Albania should strengthen child-friendly infrastructure. Police interview rooms, prosecution offices and courtrooms should reduce intimidation and permit confidential communication. Audiovisual recording should be used appropriately to limit repeated questioning, particularly of child victims and witnesses.

Fifth, detention should be subject to rigorous proportionality review. Courts should expressly identify why non-custodial alternatives are inadequate before ordering deprivation of liberty. Reviews should consider changes in circumstances, educational needs, family relations and rehabilitation plans, not simply whether the original reasons for detention remain formally available.

Sixth, the state should improve child-justice data. The integrated system should generate reliable, disaggregated and privacy-compliant statistics covering arrest, detention, diversion, mediation, legal aid, convictions, sanctions and reoffending. Public reporting should permit independent evaluation without exposing children to identification.

Seventh, children themselves should participate in policy evaluation. The Council of Europe experience demonstrates the value of consulting children about their experiences of justice. Albania's strategy should institutionalise child participation in the evaluation of courts, police procedures, detention, probation and diversion services.

Eighth, implementation should be linked to budgeting. Every major statutory guarantee should have an identified responsible institution, budget line, indicator and monitoring mechanism. This would respond directly to the CRC Committee's concern about adequate financial and human resources.

Finally, Albania should use EU and Council of Europe standards strategically in its accession process. Although not all EU instruments are directly binding, instruments such as Directive 2016/800 provide a useful comparative benchmark for procedural safeguards. Alignment should focus on substance rather than formal transposition: the goal is a system in which European standards are reflected in daily professional practice.

15. CONCLUSION

The protection of minors in criminal proceedings is a test of whether criminal justice understands the difference between formal equality and substantive fairness. Children are not entitled to fewer procedural rights because they are young; they require procedures adapted to their developmental position so that their existing rights can be exercised meaningfully.

Albania has made considerable progress. The 2017 Code of Criminal Justice for Children transformed the domestic legal framework by establishing a specialised, rights-based system for children in conflict with the law and child victims and witnesses. Its principles of best interests, participation, proportionality, rehabilitation, diversion, restorative justice and detention as a last resort broadly reflect the CRC, General Comment No. 24, European human-rights jurisprudence and Council of Europe standards.

The evidence nevertheless shows that implementation remains uneven. The Committee on the Rights of the Child welcomed Albania's reforms but continued to call for resources, diversion, non-custodial measures, shorter detention and systematic training. European Commission assessments similarly identify gaps in implementation and coordination. Albanian monitoring reports point to challenges in data systems, reoffending assessment and completion of strategic measures.

The central conclusion is therefore neither that Albania has failed nor that its reform is complete. The country has created the legal architecture of modern child justice, but the architecture must now be populated with reliable services, specialised professionals, community alternatives, effective legal aid and rigorous monitoring.

The future of Albanian child justice should be measured by outcomes rather than legislation alone. A successful system is one that prevents unnecessary criminalisation, limits detention, enables children to participate, protects victims from secondary victimisation, provides effective legal and psychological assistance, repairs harm where appropriate, and supports children in returning to education, family and community life.

The protection of minors in criminal proceedings is ultimately not an exception to ordinary justice. It is a more demanding conception of justice—one that recognises accountability while acknowledging childhood, development and the possibility of change. Albania's legal reforms provide a strong foundation for that model. The task for the coming years is to ensure that every child who encounters the criminal justice system experiences the protection that the law already promises.

BIBLIOGRAPHY: BOOKS AND ACADEMIC ARTICLES

- Liefwaard T, 'Child-Friendly Justice and Procedural Safeguards for Children in Criminal Proceedings: New Momentum for Children in Conflict with the Law?' (2020) 8(1) Bergen Journal of Criminal Law & Criminal Justice 1–17.

- Liefwaard T, 'Child-Friendly Justice: Protection and Participation of Children in the Justice System' (2016) 88 Temple Law Review 905.
- Kilkelly U and Liefwaard T, 'Child-Friendly Justice: Past, Present and Future' in Barry Goldson (ed), *Juvenile Justice in Europe: Past, Present and Future* (Routledge 2018).
- Fenton-Glynn C, *Children and the European Court of Human Rights* (Oxford University Press 2020).
- Kilkelly U, *The Child and the European Convention on Human Rights* (Ashgate 1999; Routledge reprint 2017/2024).
- Zimring FE, Langer M and Tanenhaus DS (eds), *Juvenile Justice in Global Perspective* (NYU Press 2015).
- Davis SM, *Children's Rights Under the Law* (Oxford University Press 2011).
- O'Brien W, *Children's Rights and Criminal Justice in the Digital Age* (Springer 2024).
- Goldson B (ed), *Juvenile Justice in Europe: Past, Present and Future* (Routledge 2018).
- Liefwaard T and Sloth-Nielsen J (eds), *The United Nations Convention on the Rights of the Child: Taking Stock after 25 Years and Looking Ahead* (Brill/Nijhoff 2017).
- Doek JE, 'The CRC and the UN Committee on the Rights of the Child' in related scholarship on child justice and children's rights.
- Peppo E, 'A comprehensive review of the diversion of children in conflict with law from judicial proceedings in Albania: Assessing alternatives to traditional justice' (2023) 7(3) *European Journal of Economics, Law and Social Sciences* 1–12.

BIBLIOGRAPHY: PRIMARY AND INSTITUTIONAL SOURCES

- Republic of Albania, Constitution of the Republic of Albania, art 54.
- Republic of Albania, Law No 37/2017, Code of Criminal Justice for Children.
- Republic of Albania, Law No 7905, Criminal Procedure Code, as amended.
- Republic of Albania, Law No 111/2017, On Legal Aid Guaranteed by the State.
- Republic of Albania, Law No 18/2017, On the Rights and Protection of the Child.
- Republic of Albania, Law No 10173/2009, On the Protection of Witnesses and Justice Collaborators, as amended.
- Republic of Albania, Council of Ministers Decision No 892, 27 December 2022, Intersectoral Justice for Children Strategy 2022–2026.
- UN General Assembly, Convention on the Rights of the Child (1989), arts 3, 12, 37 and 40.
- UN Committee on the Rights of the Child, General Comment No 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration.
- UN Committee on the Rights of the Child, General Comment No 24 (2019) on Children's Rights in the Child Justice System, CRC/C/GC/24.

UN Committee on the Rights of the Child, Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Albania, CRC/C/ALB/CO/5-6 (2023).

Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (2010).

Council of Europe, Recommendation CM/Rec(2008)11 on the European Rules for Juvenile Offenders Subject to Sanctions or Measures.

Council of Europe, Recommendation No R (87)20 on Social Reactions to Juvenile Delinquency.

European Convention on Human Rights, arts 3, 5, 6 and 8.

Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings [2016] OJ L132/1.

ECtHR, T v United Kingdom App no 24724/94, Judgment of 16 December 1999.

ECtHR, V v United Kingdom App no 24888/94, Judgment of 16 December 1999.

ECtHR, Panovits v Cyprus App no 4268/04, Judgment of 11 December 2008.

ECtHR, Güveç v Turkey App no 70337/01, Judgment of 20 January 2009.

ECtHR, Blokhin v Russia App no 47152/06, Grand Chamber Judgment of 23 March 2016.

European Commission, Albania Report 2023, SWD(2023) 690 final.

European Commission, Albania Report 2024 (30 October 2024).

European Commission, Albania Report 2025 (4 November 2025).

UNICEF Albania, Criminal Justice for Children Code: Completed with its Sub-Legal Acts (2019).

UNICEF Albania, Child-Friendly Justice, country resource page.

UNICEF Albania, Juvenile Justice for Children, country resource page.

UNICEF Albania, Evaluation Terms of Reference for inter-agency case management of justice for children in Albania (2022).

Ministry of Justice of Albania, Justice for Minors, official legal and policy resource page.

Ministry of Justice of Albania, Draft Monitoring Report January–December 2024, Intersectoral Justice for Minors Strategy 2022–2026.

United Nations in Albania, Albania approves the second Justice for Children Strategy 2022–2026 (10 February 2023).

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