

## Approach of Albanian legislation to minors in conflict with the law in a comparative perspective

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**Abstract.** The purpose of this study was to identify the specifics of Albania's legislative approach to minors in conflict with the law in comparison with other countries to identify unique and common features. For this, the study examined and compared the general provisions of the Albanian legislation on minors in conflict with the law with the legislation of Italy, France, Germany, and the United States. It was found that Albania, like many European countries, seeks to preserve a humanistic approach to the juvenile justice system, focusing on social rehabilitation and avoidance of imprisonment wherever possible. However, in contrast to the developed juvenile justice systems in France, Germany, and Italy, the Albanian system is still undergoing reform and improvement to meet EU standards. Compared to the United States, where juvenile criminal justice is often more severe, European approaches, including Albania's, favour rehabilitation and probationary measures. The age of criminal responsibility varies substantially across the countries under study. In Albania, it is close to the age thresholds in France, Germany, and Italy. In the United States, the approach to the age of responsibility varies from state to state. In Albania, as in other European countries, special procedures have been developed for the trial of cases involving minors. Germany and France have detailed regulations on the operation of juvenile courts. In the United States, by contrast, not all states have separate juvenile courts, while minors can be tried in adult courts for especially grave crimes. In European countries (France, Germany, Italy) and partly in Albania, legislation stipulates the active involvement of the family and community in the rehabilitation process. In the United States, family and community involvement is less structured at the legislative level, which can complicate the rehabilitation process

**Keywords:** criminal legislation; child rights; justice system; juvenile justice; children's rights protection; court processes

### Introduction

The consideration of the rights of children and minors in the justice system is a key aspect of international law. Exploring Albanian legislation in a comparative context helps to assess the extent to which international standards, such as the UN Convention on the Rights of the Child (1989), are being met and how effective the country's legislation is in the socialisation of minors. It is essential to understand how Albanian legislation approaches contribute to the correction of juvenile offenders and reduce recidivism. Comparison with other countries allows identifying possible ways to

improve the system. Albania is a country on a path to reform its justice system in line with European standards. Comparison with other countries that have already adapted modern approaches to juvenile justice can identify gaps in the local system and provide practical recommendations for legislative changes. The study of legislative approaches to juveniles in other countries is vital for the development of legal science, as it offers insight into trends and best practices in juvenile justice. This can be useful for law students, practitioners, and legislators working in the field of juvenile

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justice. Overall, the comparison of Albanian legislation with other legal systems allows for a better understanding of the specific approaches to working with minors in conflict with the law, which will contribute to the development of more effective and humane juvenile justice in Albania and beyond.

According to D.M. Marković and I. Spaić (2022), Albania has a minimum age of criminal responsibility of 14 years. This means that persons under the age of 14 cannot be held criminally liable for any offence. Albanian legislation on minors in conflict with the law, according to the findings of R. Bezić (2021), is focused on rehabilitation, social integration, and minimisation of punishment. Compared to many other countries, Albania tries to approach such cases in line with international best practices, such as the UN Convention on the Rights of the Child and the European Standards of Juvenile Justice. E. Kerka (2024) noted that the Albanian legislation on minors in conflict with the law is developed in line with international standards. The basis of this legislation is the Criminal Code of the Republic of Albania, as well as special regulations that define the specific features of the treatment of juvenile offenders. The juvenile justice system in Albania focuses on the rights of the child, their rehabilitation and reintegration into society.

Having conducted research on this topic, A.L. Pennington (2019) noted that instead of imprisonment, alternative measures of punishment, such as probation, community service, participation in rehabilitation and educational programmes, are more often imposed on minors. According to the findings of S. Case and K. Haines (2021), this is in line with international standards, which consider imprisonment to be a measure of last resort. This practice is in line with international standards, according to which imprisonment for the youth is the last resort. Alternative measures contribute to reducing recidivism rates, as they consider the specifics of adolescence and are aimed at correcting behaviour rather than merely punishing. This approach has a greater rehabilitative effect than detention in juvenile institutions, where exposure to a disruptive environment can only exacerbate the problem.

The Albanian probation service, according to O. Ristova (2022), plays a significant role in the re-socialisation of juvenile offenders by supporting them in their integration into society. Mediation, which allows for the involvement of victims in case resolution, also helps to reduce recidivism. According to B.K. Kim *et al.* (2021), minors have access to educational and vocational programmes within probation and penitentiary facilities. Probation measures for minors in conflict with the law are aimed at rehabilitation, re-socialisation, and prevention of recidivism (Spytska, 2023a). The overarching goal of these measures is to help juvenile offenders return to normal life, avoiding harsh custodial sentences that could adversely affect their future. This is a crucial aspect, as educational support and skills training help the youth to adapt more successfully after completion of their sentence.

Albania faces several key challenges in juvenile justice and support for minors in conflict with the law. One of the greatest is the limited access to specialised institutions for minors. According to E. Peppo (2023), Albania has a limited number of institutions specialising in working with juveniles, which limits the possibilities for effective intervention and rehabilitation. This shortage of facilities complicates the placement of offenders in a safe environment where they can receive adequate support and supervision, especially in

large cities and rural areas where the number of places is even smaller.

Therefore, considering the above, the purpose of this study was to investigate the specific features of Albania's legislative approach to juveniles in conflict with the law, compare this approach with analogous approaches in other countries and determine how effectively Albanian legislation ensures the rights and rehabilitation of juvenile offenders. Objectives: to investigate the key laws and regulations of Albania related to minors in conflict with the law, to assess the specifics of the application of these laws (procedures for arrest, pre-trial detention, trial, punishment, and rehabilitation), to compare the approaches of France, Italy, Germany, the United States, and Albania to identify differences and commonalities, as well as the effectiveness of approaches to rehabilitating minors.

### Materials and methods

The study analysed the theoretical aspects of the legal status of minors and the basic principles of legal regulation in the field of minors. The study analysed trials in juvenile cases in Albania, the USA, France, Italy, and Germany, and identified their features. Alternative methods of resolving conflicts involving minors were identified. The key international standards in the field of juvenile rights protection and the practice of applying juvenile legislation were examined. The study also analysed the principal factors influencing juvenile delinquency.

Within the framework of the study, the practical experience of France, the United States, Italy, and Germany was examined. The legal framework for the protection of minors in the above countries was analysed, and the age at which minors can be held criminally liable for crimes was determined. The study analysed the system of rights and obligations of minors in France, the USA, Italy, and Germany. The primary purpose of juvenile proceedings was identified. The study also determined which institutions are authorised to conduct juvenile proceedings and what criminal law actions are available to the court. Special attention was paid to the decisions of the United States Supreme Court. The concept and essence of the "model court" in the United States were analysed.

Using the method of analysis, the study examined and compared the legislative acts regulating the issues of minors in conflict with the law in Albania, as well as in other countries for comparative analysis. Specifically, the following legal acts were reviewed: the Criminal Procedure Code of the Republic of Albania (1995), Criminal Code of the Republic of Albania (1995), Directive of the European Parliament and of the Council No. 2016/800 "On Procedural Guarantees for Children Who are Suspects or Accused in Criminal Proceedings" (2016), International Convention on the Rights of the Child (1989), Law of the French Republic No. 45-174 "On Delinquent Children" (1945), Penal Code of the French Republic (1992), Decree of President of Italy No. 488/88 "The Juvenile Justice in Italy" (2015), Criminal Code of Germany (1998), Juvenile Courts Act of Germany (1974). Apart from the regulations, the study examined the legal position of the Supreme Court of the United States, which dramatically influenced the protection of minors in conflict with the law, specifically in the Case No. 104 "Kent v. United States" (1966) and Case No. 116 "In re Gault" (1967). The study also analysed the statistics of crimes committed by minors aged 12 to 17 in the United States from 1980 to 2021.

## Results

The study of criminal liability of adolescents suggests that minors are a category of offenders subject to criminal liability. As a group, they stand out for their specific features due to their age, level of physical and mental development, conditions of the environment, and special place in society, which means that a special criminal law approach to their behaviour and the exercise of the right to criminal law protection is required. This includes the protection of fundamental social relations that are violated by criminal offences, as well as the recognition and observance of the rights of minors in a manner that ensures their best interests, development, and proper application of the principles contained in the fundamental law. The criminal law protection of adolescents is one of the greatest achievements of humanity and

states, and the guarantee of criminal justice to fulfil a public duty on a universal basis for all children and adolescents is an indisputable factor in the social contract. Legal regulation of the situation of minors begins with the determination of the age of criminal responsibility.

Juvenile delinquency is caused by factors that influence the behaviour of young people in various social, economic, and psychological contexts (Table 1). The level of juvenile delinquency depends on a combination of social, economic, psychological, and institutional factors. To reduce crime, it is important to implement comprehensive measures, including social support for families, prevention and rehabilitation programmes, as well as educational initiatives that will help integrate adolescents into society and help them avoid criminal behaviour.

**Table 1.** Causes of juvenile delinquency

Type	Factors
Socioeconomic factors	<ol style="list-style-type: none"> <li>1. Poverty and low standard of living.</li> <li>2. Unemployment and limited opportunities.</li> <li>3. Low level of education.</li> </ol>
Family factors	<ol style="list-style-type: none"> <li>1. Troubled families.</li> <li>2. Conflicts in the family.</li> <li>3. Absence of parental control.</li> </ol>
School factors	<ol style="list-style-type: none"> <li>1. Bullying and aggression at school.</li> <li>2. Low school performance.</li> <li>3. Absence of support from teachers.</li> </ol>
Psychological and personal factors	<ol style="list-style-type: none"> <li>1. Emotional disorders.</li> <li>2. Impulsivity and aggressiveness.</li> <li>3. Psychological disorders and emotional issues.</li> </ol>
Influence of environment and social connections	<ol style="list-style-type: none"> <li>1. Peer pressure.</li> <li>2. Living in crime-prone areas.</li> <li>3. Negative influence of mass culture and the media.</li> </ol>
Drugs and alcohol	<ol style="list-style-type: none"> <li>1. Psychoactive substance use.</li> <li>2. Early access to drugs and alcohol.</li> </ol>
Lack of social support programmes	<ol style="list-style-type: none"> <li>1. Lack of preventive programmes.</li> <li>2. Absence of rehabilitation programs for juvenile offenders.</li> </ol>
Legal and institutional factors	<ol style="list-style-type: none"> <li>1. Inefficiency of the law enforcement system.</li> <li>2. Absence of a differentiated approach.</li> </ol>

**Source:** A. Aazami *et al.* (2023)

The criminal legislation of Albania establishes a set of general principles to be applied throughout juvenile proceedings, where the focus is on protecting the best interests of the minor, regardless of their position in the proceedings. Currently, Albania does not have a special court with the exclusive competence to resolve criminal law disputes of minors in conflict with the law, while criminal cases with juvenile defendants are currently heard in special courts. According to the Criminal Procedure Code of the Republic of Albania (1995), court hearings when the defendant is a minor, or even if the minor is the victim, are closed (Redlich *et al.*, 2022). However, an interesting point, apart from the trial and its elements, is the delivery of the judgement by the court and its execution in the penal institutions. The Albanian court considers the circumstances of the case, the personal characteristics of the accused, and the possibility of reforming the minor when passing judgement on juveniles (Kerka, 2024). The purpose of the court decision is to ensure fair treatment and at the same time create conditions for rehabilitation. There are special penal institutions for juveniles who received a sentence of imprisonment, which are oriented towards their needs (Resnik *et al.*, 2020). Specifically,

these institutions are the Kukës Centre for Minors, the Tirana Centre for Rehabilitation and Adaptation of Minors. The Albanian penitentiary system provides adapted conditions of detention for juveniles, where they have access to education, vocational training, and psychological care.

It should be emphasised that in any case, a minor in conflict with the law may apply for alternative measures to deprivation of liberty, as the latter is considered the ultimate measure that can be applied only in extreme cases (Liefwaard, 2019). According to the Criminal Code of the Republic of Albania (1995), restriction of liberty for minors is applied mainly in cases of grave or violent crimes: intentional murder, grievous bodily harm, rape, or other grave sexual offences, crimes related to human or drug trafficking, and terrorist acts. The very purpose of convicting a minor is aimed at re-socialising the minor, rehabilitating them in penal institutions, reintegrating them after the conclusion of their sentence, and preventing them from becoming a repeat offender and committing similar or the same criminal acts in the future. Throughout the entire process of sentencing a minor to imprisonment, the key guarantee offered to them is psychological care, guidance, and supervision by specialists in this

field. Notably, for minors, as a special category, the legal provisions for deprivation of liberty differ from those for adults.

However, both the Criminal Code and other supplementary acts have some shortcomings in terms of legal provisions. None of the legislative acts of the Republic of Albania contains legal provisions regulating the relations of the media regarding the dissemination of information and their obligation to keep confidential data of minors in conflict with the law (Milutinović *et al.*, 2023).

Apart from the above-mentioned shortcomings in the harmonisation of national legislation, the situation also seems problematic in the case of the “*in dubio pro reo*” principle, which is emphasised by international legal documents, namely Directive of the European Parliament and of the Council No. 2016/800 “On Procedural Guarantees for Children Who are Suspects or Accused in Criminal Proceedings” (2016). According to this principle, the Directive stipulates that “the exercise by a person under investigation or accused, a minor in conflict with the law, of the right to remain silent or not to testify may not be used against them or as evidence that they have committed a criminal act”. According to the Directive, respect for the principle of presumption of innocence requires states to oblige them not to provide evidence of guilt without a final court decision confirming this fact, to encourage the media not to violate the presumption of innocence without a final form of court decision, and to impose sanctions in case of violation of these standards.

Although there is no general legislation on minors in conflict with the law in France, the various ministries representing young people, such as the Ministry of Justice, the Ministry of National Education or the Ministry of Youth, have created separate regulations. Furthermore, in 1989, France ratified the International Convention on the Rights of the Child (1989), which guarantees the rights of all children and creates a protective legal framework for them. The French authorities have long been concerned about juvenile justice, which is why Law of the French Republic No. 45-174 “On Delinquent Children” (1945) was adopted, aimed at abandoning repressive measures and replacing them with educational ones. The legal framework for the protection of minors was created in 1945 with the adoption of numerous resolutions, decrees, and laws relating to the protection of children and adolescents. This Decree brought about some substantial changes, including a reduction in age-related liability and a change in the 18-year age of majority. For children under 13, the Penal Code of the French Republic (1992) establishes a presumption of legal incapacity: “Minors under the age of thirteen shall be presumed to be incapable of discerning whether they are committing a criminal offence or not”. Furthermore, France legislatively changed the criminal procedure for juvenile offenders.

Depending on the circumstances, French young people have different rights and obligations. They come from civil law after they reach the age of majority or from the rights of the child when they are still minors (Leenknecht *et al.*, 2020). Young French people have very few rights. They generally have few direct rights of their own and mostly have social rights (family benefits, social security membership, tax benefits, etc.). To ensure that a minor or convicted minor can best exercise their other rights and take part in activities that are primarily educational and aimed at reintegrating the minor into society, consideration is given to keeping their status and offences to a minimum.

According to French legislation, as in many other countries, minors must be tried in specialised institutions rather than in ordinary criminal courts. One of these institutions is the so-called children’s judge, who hears cases involving minors and imposes sanctions on them (De Maximy, 2021). The juvenile court, which has three professional magistrates and a people’s jury, is the place where crimes committed exclusively by minors between the ages of 16 and 18 are tried according to a unique process that applies exclusively to minors. The court has the following categories of criminal law actions available to minors: educational measures in the form of preventing contact with the victim can be applied to minors who have reached the age of 10, and educational measures can be applied regardless of the age of the child. Proceedings for minors are usually held in private to protect the child’s privacy and avoid public stigma.

Italy adopted new laws relating to the juvenile justice system in 1988. Decree of President of Italy No. 488/88 “The Juvenile Justice in Italy” (2015) calls on judges and lawyers and other representatives of the law to keep minors from any criminal penalties whenever possible, recognising that admission to the juvenile justice system is harmful to their natural development. According to the law, the juvenile justice process should be adapted to the needs of the individual and their level of education. Interventions should not negatively affect the personality of the minor, while helping them to adapt to normal social life.

This youth-centred approach is put into practice by providing judges with a variety of sentencing measures that can be tailored to the needs of each young individual. Remedies in this context include house arrest, probation, parole, special conditions, and judicial pardon. The judge can use these tools to call the young person to victim/offender mediation, community service, an individual educational project, applying for a job, or other necessary measures. Deprivation of liberty has effectively become a last resort since the adoption of this legal provision.

According to research, in 2014, around 1,000 young people were imprisoned in Italy, compared to 7,500 in 1988. Only 20% of the young people brought to trial were found guilty and sentenced by judges (Flayols *et al.*, 2019). Alternative sanctions focus on social resources, family, stable housing, and opportunities for education or employment. The absence of these social services and alternative options complicates the fulfilment of foreign-born adolescents, most of whom are unaccompanied, and increases the probability that they will be imprisoned. The data currently available shows that foreign youth are disproportionately imprisoned in the Italian juvenile justice system (Goldson *et al.*, 2020). Although they make up 40% of minors in detention, immigrants make up 20% of youth in the system. The Italian juvenile justice system should continue to prioritise the educational, developmental, and social needs of young people. However, this should apply to all young people, regardless of their background.

The German system places great emphasis on restorative practices and mediation, diversion, minimal intervention, and sanctions from the educational community. Deprivation of liberty is a measure of last resort. Minors under the age of criminal responsibility are subject to civil law. However, depending on their development, they may also be subject to criminal legislation. The conditions for this are determined by the relevant legal provisions, particularly the Criminal

Code of Germany (1998). While the general Criminal Code does not specifically address minors, certain provisions consider the age of the offender. The articles on liability stipulate those persons over the age of 14 can be held criminally liable, but with due regard to the approaches defined in the Juvenile Courts Act of Germany (1974). This Act is the principal law that defines the legal framework for the judicial proceedings against juvenile offenders. The Juvenile Courts Act of Germany (1974) is designed to accommodate the age-specific characteristics of young people, their psychological immaturity, and their re-socialisation needs. The law stipulates the possibility of alternative punishment, such as social and educational measures, supervised probation, mandatory participation in rehabilitation programmes, and mitigation of sentences such as restriction of liberty or short-term imprisonment in exceptional cases.

In the Federal Republic of Germany, hearings in criminal cases involving minors may only be held in juvenile courts. According to the Juvenile Courts Act of Germany (1974), during the hearings, the juvenile court must consider each juvenile case in a particularly confidential manner, trying to help with non-criminal support for the unhappy life of the young defendant. The court cannot perform this task jointly with the prosecutor's office. Considering this situation, there are provisions for administrative proceedings to be initiated by a higher judicial authority or on the initiative of the juvenile prosecutor in the public interest. This is particularly applicable in cases of repeated offences, where the young person was guilty of other habitual offences at a particularly young age, and where the severity of the punishment is expected to contribute to useful reform and crime prevention. According to the Juvenile Courts Act of Germany, the primary goal of juvenile proceedings is to reform minors. The rules are aimed at education rather than punishment. They allow for the use of warning or punishment as a measure of early criminal justice prevention. As a group prevention measure, education is used by influencing the individual. Its purpose is to ensure that the punishment does not have a particularly harmful effect on the minor. Community punishments include work therapy, special therapeutic care, or protection through placement in a foster care or educational institution (Zotaj *et al.*, 2024).

The German youth system is rehabilitative in nature, based on the Neustrelitz prison model (Banks, 2020). Since it is challenging to sentence a young person to prison in Germany due to legal provisions, people are sent to Neustrelitz. Unlike American prisons, their youth have access to a variety of vocational programmes, including agriculture, metalworking, woodworking, and culinary training. In Germany, on the other hand, these programmes have recently gained popularity due to federal penalty measures.

The juvenile justice system has experienced profound transformations through judicial intervention, particularly by the United States Supreme Court. Recognizing the distinct nature of youth criminal proceedings, the Court has consistently distinguished them from adult legal processes. In a pivotal Case No. 104 "Kent v. United States" (1966), the Supreme Court addressed critical procedural concerns regarding juvenile detention and prosecution. During this landmark case, law enforcement detained a young individual for an extended period without prompt judicial review, raising significant constitutional questions about due process. The Court ultimately determined that the prolonged

detention without a formal hearing violated the minor's fundamental legal rights. This decision established crucial protections for juveniles facing potential criminal charges by mandating judicial hearings before adult prosecution, ensuring the right to legal representation, and requiring comprehensive review of prosecutorial decisions to transfer cases from juvenile to adult courts. These judicial guidelines ensure that prosecutorial actions involving minors undergo rigorous scrutiny, acknowledging the unique legal and developmental considerations specific to young defendants. The ruling underscored the importance of protecting constitutional rights while maintaining a balanced approach to juvenile justice.

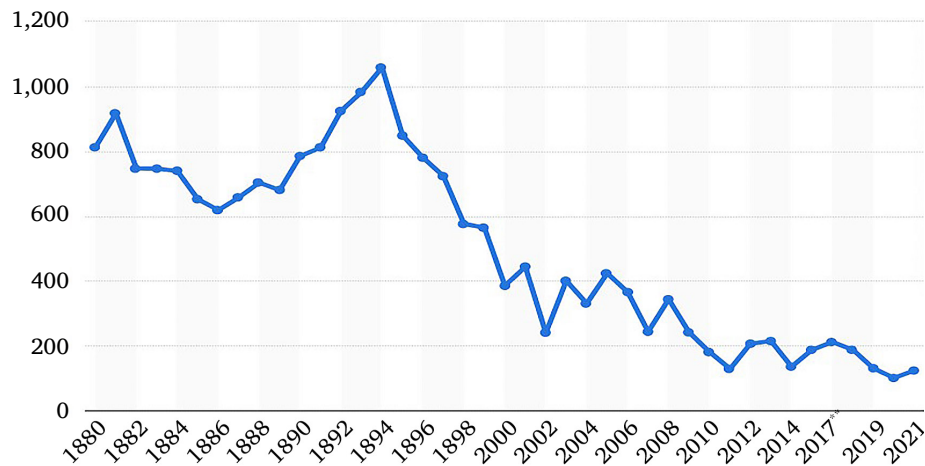
Both the procedural rules and sentencing systems in the US juvenile justice system differ considerably from those for adults. Juvenile courts operate based on the core values of the Model Juvenile Court Act, which created a mixed court with the functions of a family court, civil court, and criminal court. Notably, the Model Court in the United States is not the name of a concrete law, but rather an initiative or concept within the framework of judicial reforms aimed at creating exemplary, effective court practices (Fogarty *et al.*, 2020). Some states (Georgia, Texas, Wisconsin) limit access to juvenile courts to those under 18 or 17, but states have broad discretion to determine the age of majority for various purposes of young people's rights and responsibilities.

The most significant procedural difference between a juvenile court and an adult court is their foundation: due process. Juvenile courts are generally subject to the conventional system of due process as established by the U.S. Supreme Court. The two principal rights protected are the right to notice and the right to counsel. These rights were shaped and consolidated by the Case No. 116 "In re Gault" (1967). The waiver of counsel in juvenile cases is widely permitted, which has led to criticism that minors may lose essential liberty rights without any independent advice or representation, leading to personal distress.

Children and their environment need to be aware of the law, the rights and obligations that derive from it, the concept of criminal liability, and the consequences and gravity of serious anti-social behaviour. The core purpose of educational activities is to shape children's moral beliefs by providing them with examples of everyday behaviour that could lead to a crime (Simović & Šikman, 2023). The partners in this goal are the family, school, teachers, and all-important figures – institutional and otherwise, including the media. Communication is always an open channel for informing the population about the rights and guarantees that young people should have and their responsibilities arising from their age. Different forms of communication should be used to inform different ages. Methods of information transfer and training, including interactive games, should be developed on an ongoing basis. Public control over the observance of the rights of minors and their guarantees should also be exercised by organisations whose task is to protect the youth. Therewith, it is necessary to provide various financial, legal, social, psychological, and other support to young people in need, as it is the responsibility of society to take care of the future of juvenile offenders. Its mission is not to return evil onto those who have done wrong, but rather to prevent it from becoming an inborn trait. However, in the interests of the normal development of minors in harmony with society, the legal norm can and should from time-to-time resort to coercion.

In recent years, the United States has been implementing programmes aimed at rehabilitating juveniles rather than just punishing them. For example, Restorative Justice Programs promote the involvement of adolescents in society after offences, which reduces the risk of recidivism. The United States has implemented many programmes to support families with children in crisis, which provide psychological care and support for the socialisation of most-at-risk adolescents.

These include the CAPTA and Family First Prevention Services Act programmes. Comprehensive measures, including juvenile justice reforms, investment in education, prevention programmes, and access to social services, have been shown to reduce juvenile crime (Fig. 1). Countries with low levels of juvenile delinquency typically have well-developed social programmes and invest more in preventing problems in childhood, as exemplified by the United States and other countries.



**Figure 1.** Number of grave crimes committed by minors aged 12 to 17 years in the US from 1880 to 2021

Source: Statista (2024)

Reducing the level of juvenile delinquency in the world is a complex process influenced by social, economic, educational, and legal factors. In recent years, many countries have experienced a positive trend towards a decrease in juvenile delinquency, which is explained by a variety of approaches to preventing and supporting children and youth.

Expanding access to quality education and developing programmes that foster critical thinking, moral values, and social skills in children help them make positive choices. Families with a stable social and economic situation are less likely to be involved in criminal activities (Massenkoff & Rose, 2024). Family support programmes, including crisis intervention, psychological care, and counselling for parents, strengthen family ties. Instead of conventional punishment for minors, restorative justice programmes focus on conflict resolution and repair of harm. This approach promotes awareness of the consequences of one's actions and reduces the risk of repeated offences. Many countries are abandoning long prison sentences for juveniles. Instead, they use methods such as community service, compulsory education, participation in therapeutic programmes, etc. Increasing the availability of psychological help and support for minors reduces the level of aggression, depression, and anxiety, which can be the causes of criminal behaviour (Dmytrenko, 2023). Providing children with the opportunity to take part in sports, creative activities, and educational programmes reduces the risk that they will resort to the criminal world due to lack of activities or support. Many countries are investing in creating centres where adolescents can receive support, find mentors, and take part in various development and employment programmes. The reduction in juvenile delinquency rates is the result of an integration of multiple approaches, ranging from family support and investment in education to juvenile system reform. The most successful

strategies combine crime prevention with rehabilitation, developmental support, and integration into society, which helps to create a safe environment for children and youth.

## Discussion

The criminal liability of minors has specific features that account for age, psychological development, and the need for rehabilitation instead of punishment. Minors differ from adults in terms of mental development, emotional maturity, and ability to assess the consequences of their actions. Therefore, criminal law prescribes a special, more lenient approach to the liability of minors. In most countries, there are special laws and regulations that separate the criminal liability procedure for minors from that for adults to protect the rights of children and create conditions for their rehabilitation.

According to T. Crofts (2023), European countries currently lack uniform legislation on the age of criminal responsibility for minors. While liability typically arises between fourteen and sixteen years, this remains an exception. Most European nations, including Albania, set sixteen as the lower limit of criminal liability for minors or gradually reduce this threshold. England emerges as a distinct exception, establishing both the minimum age of criminal liability and court appearance at ten years. In examining this issue, T. Crofts (2023) notes that criminal liability for grave crimes like murder and rape can commence at age 14, enabling prosecution of minors for serious offenses.

At the same time, according to F. Hikmah and A. Yanto (2023), researchers are increasingly raising the issue of lowering the age of criminal responsibility. For example, A.H. Wong (2024) argues that by lowering the age of criminal responsibility, adolescents will be more aware of the consequences of their actions and responsibility for grave crimes. This may reduce the number of offences, as fear of

punishment will be a deterrent. Modern adolescents often reach physiological and social development earlier than in the past. Therefore, they can better understand their actions and their consequences, and therefore take responsibility for them. However, the UN Convention on the Rights of the Child (1989) recommends that the age of criminal responsibility should not be lower than 12 years. Many countries adhere to this norm, and lowering the age may contradict international recommendations that focus on child protection and rehabilitation rather than punishment. It is also worth noting the opposite opinion of A.H. Wong (2024): Juvenile offenders who enter the criminal justice system are at a higher risk of reoffending. Harsh punishment at an early age can exacerbate the negative impact on the child and increase the chance that they will return to the criminal path.

Adolescent criminal behaviour is the result of a complex interplay between socio-economic conditions, family factors, social pressure, psychological development, and cultural influences (Spytska, 2023b). Understanding these causes helps society to develop more effective juvenile crime prevention programmes aimed at correcting behaviour and socialisation. It is worthwhile to focus on the study by R.K. Mwangangi (2019), who argues that unfavourable socio-economic conditions are a significant factor that pushes adolescents to commit offences. Adolescents from poor families or high-crime neighbourhoods often perceive offending as a way to improve their financial situation or to emulate behaviours common in their environment. According to research, this can include property, drug, or violence-related crimes, especially if adolescents feel they lack access to education and other social resources. This is true, as the family is the first social institution where children learn basic behavioural norms and moral values. A. Mazzone and M. Camodeca (2019) showed that children from families where parents actively support moral and ethical principles are less likely to commit offences. Positive examples in the family help to build respect for the law and a sense of responsibility for one's personal actions.

The experience of developed foreign countries can be used to address the current problems of juveniles in conflict with the law, including juveniles who have committed grave and especially grave crimes. According to S. Eriksen *et al.* (2021), this experience has demonstrated the effectiveness of participatory processes aimed at minimising the number of juvenile deprivations of liberty. The focus is on measures aimed at exemption from liability, including the application of preventive, therapeutic, social, and other types of influence on minors who have committed offences, and the protection of the legitimate interests of minors without legal representation. Albania is actively working to bring its legislation on juvenile liability in line with international standards, including the UN Convention on the Rights of the Child (1989). Specifically, changes in criminal law have placed emphasis on rehabilitation and social integration of juvenile offenders instead of punishment. Detention for children is a measure of last resort and should be used for the shortest possible period, and legal and psychological aid is guaranteed for children who are offenders or victims of crime.

Some researchers oppose criminal liability for minors. For example, L. Polglase and I. Lambie (2024) argued that imprisonment and harsh punishments can lead to a juvenile becoming even more entrenched in the criminal environment. Contact with adult offenders and incarceration can

exacerbate the situation by creating a negative social impact. J. Liang and T. Peng (2023) supported the opinion of psychologists and sociologists that adolescents have not yet fully developed the emotional and psychological qualities that allow them to make informed decisions. The adolescent brain develops until the age of 25, and therefore their behaviour is often determined by impulsivity and peer pressure. While the conclusions of the researchers should be accepted, it is worth remembering that criminal liability of minors helps to protect society, because if a minor commits a crime, they must be held accountable, just like adults. This provides justice for victims and can deter such behaviour in the future. Criminalisation can act as a deterrent. If adolescents are aware of the consequences of their actions, this can reduce juvenile delinquency (Apakhayev *et al.*, 2024). Some researchers believe that accountability, even if it comes with lighter penalties, teaches adolescents the value of rules. Therefore, it is worth paying attention to the findings of Y. Pan (2023), who noted that many experts suggest replacing conventional punishment for adolescents with restorative justice, which aims to reconcile with victims and correct their behaviour. This approach shows better results in reducing recidivism and contributes to the re-socialisation of adolescents.

Consequently, most countries are adopting a humane approach aimed at rehabilitation rather than punitive methods that can hinder the socialisation of adolescents. Measures such as probation, community service, and rehabilitation programmes allow adolescents to understand the consequences of their actions and adapt to the norms of behaviour in society (Yusupova, 2022). Legislation often stipulates more lenient penalties for minors, including the prohibition of life imprisonment and reduced maximum sentences. This is in line with the UN Convention on the Rights of the Child (1989), which calls for a special approach to children, including those who have committed offences. The involvement of psychologists and social workers is an integral part that helps to accommodate the psychological state of the adolescent and guides them on the right path. It also facilitates rehabilitation and reduces the probability of repeated offences. These features reflect the desire of the international community and individual countries to promote the social reintegration of juvenile offenders, supporting their rights and dignity, and to reduce juvenile delinquency through humane treatment and preventive measures.

## Conclusions

The Albanian criminal legislation on minors provides the latter with maximum protection, recognising the possibility of alternatives to detention, or even the possibility of avoiding it as an institution. Guaranteeing the fundamental rights and needs of minors is at the heart of this system. What needs more work is the IEVP for minors and the possibilities of reorganising these bodies to meet the concrete needs of minors as closely as possible.

The Italian legislation that controls the juvenile justice system appears to be functioning effectively, according to the latest available data. However, a closer look at the data reveals an intriguing contradiction: the system performs poorly for young people from other countries, but well for Italian youth. The main principle of Decree of President of Italy No. 488/88 is the reintegration of minors into the community; however, based on the provisions of the

legislation, it appears that foreign youth – whether immigrant or not – rarely take part in the support procedures when they have fallen behind. France, on the other hand, has seemingly learned over several decades of experience what measures alleviate the minor's situation and help in their reintegration and what measures should not be taken. In this context, avoidance, as one of the institutions recognised by French juvenile criminal legislation, as well as Albanian, appears to be one of the most practical choices that the prosecution makes in these cases. Germany is one of those European countries that can undoubtedly be called a pioneer in juvenile justice. There is not only a set of acts regulating the situation of juvenile offenders, witnesses, or victims, but also how the latter will be reintegrated by developing individual programmes for the concrete needs of each juvenile.

The long-established juvenile justice system in the United States has undergone a considerable transformation in recent years. American courts are beginning to adjudicate more minors as adults than ever before, moving from a model of rehabilitative goals to a much more punitive approach.

One of the benefits of this change is that minors now have access to constitutional rights that were previously reserved for adults in the criminal justice system. The disadvantage of this trend is that many young people are being processed through a system that is not suited to this function; it is a system that prioritises punitive justice over youth development and the prospect for reintegration. However, a positive development is the added safeguards provided to minors in the witness protection programme.

One important area for future research could include a comparative analysis of the effectiveness of probation programmes for juvenile offenders in Albania and other countries. This would allow exploring the role of probation in the rehabilitation and reintegration of minors into society.

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## Підхід албанського законодавства до неповнолітніх у конфлікті з законом у порівняльній перспективі

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**Анотація.** Метою цього дослідження було визначення особливостей законодавчого підходу Албанії до неповнолітніх, які перебувають у конфлікті із законом, у порівнянні з іншими країнами для виявлення унікальних та спільних рис. Для цього було розглянуто та порівняно загальні положення албанського законодавства щодо неповнолітніх, які перебувають у конфлікті із законом, із законодавством Італії, Франції, Німеччини та США. Було виявлено, що Албанія, як і багато європейських країн, прагне зберегти гуманістичний підхід до системи ювенальної юстиції, зосереджуючись на соціальній реабілітації та уникненні тюремного ув'язнення, де це можливо. Однак, на відміну від розвинених систем ювенальної юстиції у Франції, Німеччині та Італії, албанська система все ще перебуває на стадії реформування та вдосконалення, щоб відповідати стандартам ЄС. На відміну від США, де ювенальна кримінальна юстиція часто є більш суворою, європейські підходи, в тому числі і в Албанії, надають перевагу реабілітаційним та пробаційним заходам. Вік настання кримінальної відповідальності в досліджуваних країнах суттєво відрізняється. В Албанії він близький до вікових порогів у Франції, Німеччині та Італії. У Сполучених Штатах підхід до віку відповідальності варіюється від штату до штату. В Албанії, як і в інших європейських країнах, розроблені спеціальні процедури для судового розгляду справ за участю неповнолітніх. У Німеччині та Франції існують детальні правила функціонування судів для неповнолітніх. У США, навпаки, не всі штати мають окремі суди для неповнолітніх, а за особливо тяжкі злочини неповнолітніх можуть судити в судах для дорослих. У європейських країнах (Франція, Німеччина, Італія) та частково в Албанії законодавство передбачає активне залучення сім'ї та громади до процесу реабілітації. У США залучення сім'ї та громади менш структуроване на законодавчому рівні, що може ускладнювати процес реабілітації

**Ключові слова:** кримінальне законодавство; права дитини; система правосуддя; ювенальна юстиція; захист прав дитини; судові процеси