

Involvement of minors in the criminal process: procedural regulation according to the legislation of the Republic of Kosovo

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Abstract

This study explores the significance of juvenile personality in criminal proceedings within Kosovo's legal framework, emphasising juveniles' unique psychological, social and biological development stages and their impact on criminal behaviour. Despite the global interest in juvenile justice, there is a notable gap in literature specific to Kosovo, particularly concerning the consideration of personality traits and cognitive maturity in legal processes. Through an analysis of the Code of Juvenile Justice and the Code of Criminal Procedure, along with case studies and interviews with police, prosecutors, judges and psychologists, the research addresses this gap. Key findings highlight that while Kosovo's legal framework provides robust protections for juveniles, practical challenges include delayed identification, insufficient privacy enforcement and resource constraints. The study underscores the importance of psychologist involvement during interrogations and the need for age-appropriate communication. Additionally, it points out the limited number of specialised personnel and rehabilitation institutions as major obstacles. The research advocates for enhanced training, increased resources and a review of current sanctions to ensure the juvenile justice system prioritises rehabilitation over punishment. This study aims to improve the understanding of juvenile personality in legal proceedings, promoting fair and just treatment for young offenders.

Keywords

Criminal Process • Juvenile Personality • Kosovo Juvenile Justice

INTRODUCTION

The study of juvenile personality in the context of criminal proceedings holds significant importance in the legal field. Juveniles represent a unique demographic, characterised by ongoing psychological, social and biological development. This stage of life is marked by transformative changes that can influence behaviour, including the propensity for involvement in criminal activities. Understanding the personality traits of juveniles—comprising stable mental and physical characteristics that define individual identity and behaviour—is crucial in directing the legal process towards fair and just outcomes.

In Kosovo, while there have been some studies on juveniles in the criminal justice system, there remains a notable gap in the literature that comprehensively addresses the nuanced aspects of juvenile personality and its implications in legal proceedings. This study seeks to fill this gap, focussing on the specificities of the juvenile justice system in Kosovo and providing a deeper understanding of the personality factors influencing juvenile behaviour in criminal contexts.

Despite the global interest in juvenile justice, there is a scarcity of in-depth research focussing on the national context

of Kosovo. Existing studies often generalise findings across regions or fail to account for local cultural, social and legal nuances. Specifically, there is limited literature that explores how the unique developmental stages of juveniles interact with the legal processes, from interrogation to adjudication. Moreover, the existing literature lacks a comprehensive examination of how judicial and investigative bodies consider personality traits, cognitive maturity and psychological factors of juveniles. This gap necessitates a focussed investigation into the intersection of juvenile personality and criminal proceedings within the specific legal framework of Kosovo.

Previous studies have established that the cognitive and emotional development of juveniles plays a critical role in their involvement in criminal activities (Sahiti, 2007). The age-related maturity levels, especially in young juveniles (14–16 years), can lead to impulsive decisions, susceptibility to peer influence and difficulties in understanding the consequences of their actions. The legal framework in Kosovo, including the Code of Juvenile Justice (2018) and the Code of Criminal Procedure (2022), outlines specific protocols for handling juvenile cases. These laws emphasise rehabilitation over punishment, reflecting a growing recognition of the need for age-appropriate interventions (Salihi, 2012). However, practically there are challenges

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in implementing these laws, particularly in ensuring fair treatment and avoiding undue influence on juveniles during legal proceedings.

The methodology used in interviewing juveniles is critical. Studies have highlighted the importance of creating a supportive and non-confrontational environment to ensure the reliability of juvenile testimonies (Claeys et al., 2013). The involvement of psychologists and the use of simplified language are essential to accommodate the cognitive and emotional capacities of juveniles (Gega and Hasani, 2009). The main objectives of the article are:

1. To analyse the impact of juvenile personality traits on their involvement in criminal activities and subsequent legal processes.
2. To assess the adequacy and effectiveness of the current legal framework in Kosovo concerning the treatment of juveniles in the criminal justice system.
3. To explore the challenges faced by legal and investigative institutions in handling juvenile cases, focussing on procedural fairness and the protection of juvenile rights.

In pursuit of the main objectives, the article tries to verify the following hypotheses:

H1: Juvenile personality traits significantly influence their behaviour and the outcomes of criminal proceedings.

H2: The current legal framework in Kosovo adequately protects the rights of juveniles but faces challenges in practical implementation.

H3: Enhanced training for law enforcement and judicial personnel in handling juveniles can lead to more accurate and fair outcomes in criminal cases.

An extensive review of existing literature was conducted to gather secondary data. This includes scholarly articles, legal texts and reports from international organisations on juvenile justice. Key sources include legal codes such as the Code of Juvenile Justice of the Republic of Kosovo and the Code of Criminal Procedure, as well as theoretical frameworks on juvenile psychology and legal processes. Interviews were conducted with professionals involved in juvenile justice, including police officers, prosecutors, judges and psychologists. The interviews aimed to gather insights into their experiences and perspectives on handling juvenile cases, challenges faced and best practices.

Specific cases involving juveniles were analysed to understand the practical application of laws and procedures. This included examining court records, police reports and other relevant documents to assess how juvenile personality traits and developmental stages are considered in legal proceedings. Questionnaires were distributed to legal professionals and law enforcement officers to gather quantitative data on their knowledge, attitudes and practices regarding juvenile justice. The surveys included questions on the application of legal provisions, inter-institutional

cooperation and perceived challenges in handling juvenile cases.

RESEARCH RESULTS AND DISCUSSION

The personality of the juvenile in a criminal process

Personality properties as elementary properties in a criminal process have special importance in giving the right direction to this process. Even though it is said that the category of juveniles is well studied, it is considered that few studies and commitments have been made in the national aspect to treat the age of juveniles efficiently. Juvenile age as an important life stage, is associated with transformative biological properties with tendencies of involvement in criminal acts. Personality encompasses the set of stable mental and physical characteristics making up an individual's identity and determines the way a person acts or reacts to others and the environment. Researchers have long been intrigued by juvenile delinquency, as young people represent a new and growing generation in which many place their hopes. However, when young people engage in immoral and antisocial behaviour, it suggests that parents, guardians, educators and others involved in shaping a person's character may not be paying enough attention to the educational process (Sult, 2021).

In the history of criminal procedure law, there are reasonable worldviews towards questioning and using the statements of certain categories of persons. Taking into account the age of the juvenile and other features presented to them, it is obvious that the possibility of questioning requires the judge to know the psychology of this age (Sahiti, 2007). We must emphasise the fact that in many contemporary legislations, criminal liability begins upon reaching the age of 14 years (Salihi, 2012), while the possibility of applying the punishment of imprisonment upon reaching the age of 16 years (Code of Juvenile Justice of the Republic of Kosovo, 2018).

Active and intense developments in the age of juveniles that are intertwined with psychological maturity, accompanied by other transformative influences are considered to be of a nature that can have an impact on criminal behaviour. Such behaviours can significantly complicate the accuracy and reliability of the investigative and judicial institutions to reveal the truth about the juvenile incriminated or involved as a victim or witness. Based on the results of a research on personality traits in juvenile delinquents, it appears that juvenile delinquents are a heterogeneous population in terms of personality traits. These features have discriminant and predictive validity. Adding personality measures to the assessment of delinquents may improve our understanding of how personality influences future criminal activity and recidivism (Steiner et al., 1999).

Modern theories in juvenile criminal law and juvenile

delinquency argue that juveniles are not born delinquents, nor do they choose to become one. Instead, various external factors contribute to the development of a delinquent profile, alongside the influence of multifactorial theories of delinquency (Ratkoceri and Ibis, 2021).

In Article 120 paragraph 3 of the Code of Criminal Procedure, it is mentioned that any person summoned as a witness has a duty to respond to the summons and unless otherwise provided for by the Criminal Procedure Code, to testify (Code of Criminal Procedure of the Republic of Kosovo, 2022). Based on the national and international legal acts that deal with juveniles, it is emphasised that due to their immaturity, can be influenced both in the positive and negative aspects. The purpose of the specific treatment of juveniles as perpetrators of criminal offences is primarily to rehabilitate the juvenile so that he can return as a useful member of society (Sahiti and Murati, 2013).

The legal process against juveniles is characterised by actions and procedural progress different from that of adults, such as:

- For a child under the age of 14 years old, no court proceedings shall be initiated. If the child is under the age of 14 years old at the time of committing the criminal offence, any commenced court proceedings shall be immediately ceased and the Guardianship Authority shall be informed of the case by the police upon consultation with the juvenile state prosecutor;
- Court proceedings cannot be conducted against an adult who has reached the age of 21 years for a criminal offence committed as a juvenile under the age of 16 years;
- When a juvenile is in detention, arrest or remand, the authorities that carry out the proceedings shall be obliged to act with urgency;
- A juvenile shall not be adjudicated *in absentia*;
- The juvenile must have a defence counsel when examined for the first time, as well as during the entire proceeding;
- The parents, adoptive parents or guardian shall be entitled to accompany the juvenile in all proceedings and may be required to participate if it is in the best interest of the juvenile;
- All proceedings involving juveniles shall be confidential. No recording of the proceedings, including audio and video recording, may be made public without the authorisation of the court (Code of Criminal Procedure of the Republic of Kosovo, 2022).

Code of Juvenile Justice of the Republic of Kosovo (2018) in Article 60 in the framework of the general rules determines that the measures to ensure the presence of juveniles in criminal proceedings are:

- Provisional arrest;
- Police detention; and
- Detention on remand.

The provisional arrest or police detention of a juvenile cannot exceed a period of 24 h. On the expiry of that period, the police

shall release the juvenile unless a juvenile judge has ordered detention on remand. A juvenile may be held in detention on remand on the ruling of juvenile judge for a maximum of 30 days from the day he was arrested. In the preparatory proceedings, the detention on remand of a juvenile may only be extended for an additional period of up to 60 days, whereas after submission of a relevant motion by the prosecutor the detainee (Code of Juvenile Justice of the Republic of Kosovo, 2018).

National legislation divides juveniles into young juveniles—a person who has reached 14 years old, but not 16 years old and adult juvenile—a person who has reached 16 years old, but not 18 years old. Taking into account the age and maturity of juveniles, especially young juveniles when they are 14 years old, his statement can be characterised by the fact that it can be permeated with fantasy, which also carries the subjective state into the objective world (Sahiti, 2007). They may not understand how the way of obtaining a statement works in security and justice institutions, or they may have difficulty understanding the language used by the judge, lawyer or other participants.

Studies and practice indicate that a large part of juveniles have the perception that being questioned by the Police, the Prosecutor or the Court is a difficult thing. Therefore, naturally, it would be acceptable for juveniles who will testify before a criminal process to first prepare psychologically so that their testimony has the desired effect (Gega and Hasani, 2009).

Police interrogations are the starting point of criminal procedures against juvenile offenders (Claeys et al., 2013). Considering that the Code of Juvenile Justice and the Code of Criminal Procedure determine that a juvenile can be interrogated a maximum of two times, the relevant institutions must be prepared and careful not to exceed this rule and take advantage of the opportunities to interview the juvenile properly. Creating and maintaining a suitable atmosphere during the interview is an essential element in the process of questioning the juvenile.

The interviewer should remind the juveniles that they are not being interviewed because they have done something bad, but because the judge needs their help and information to make a decision as fair as possible. By creating an atmosphere of cooperation to find the truth, the confrontational nature of the interview is minimised, thereby reducing juveniles' concerns about their answers. To make sure that the juvenile is understanding the questions and answers, the interviewer can ask the juvenile to repeat the question in his own words.

To achieve the most effective result of interrogation of juveniles, in the process of its implementation it is important to comply with procedural and psychological aspects, strict compliance with the law on preparation, conduct and recording of interrogation and taking into account mental characteristics, socio-psychological characteristics, temperament of the

interrogated, observance of high moral and tactful behaviour (Dekailo and Blashchak, 2021).

Vocabulary and linguistic complexity during the interview are two elements closely related to the results expected from the interview. These two elements make up communication in a criminal procedure. Of course, it often happens that juveniles do not understand many of the words, phrases and questions commonly used by legal professionals and legal terminologies. Considering these circumstances, interviewers should be very careful with their vocabulary and linguistic complexity during the interview. In this way, they must make sure that they are not exceeding the understanding abilities of juveniles. Young witnesses, victims and suspects alike possess youthful characteristics that influence their ability to validly inform legal processes (Owen-Kostelnik, 2006).

Juveniles are more likely to see police officers as friends when questioned, and it has been suggested that this may be partly due to juveniles' inability to interpret facial expressions and understand the emotions of others. Also, they may be less likely to understand the officers' actual roles in the situation and thus may be more likely to be persuaded by the officers to say what the officers want the juvenile to say. Even when the police present false evidence to a minor in an attempt to trick the minor into confessing, the minor may be more likely to accept that evidence as fact and believe it to be irrefutable (Alberts, 2016).

Children in legal trouble have a right to respect and dignity under the United Nations Convention on the Rights of the Child, as well as a youth justice system tailored to their needs and circumstances. The United Nations Convention on the Rights of the Child emphasises the significance of providing legal counsel, information and support to enable children to participate in the criminal justice system, acknowledging the need to safeguard children's rights throughout this process. Given their susceptibility and immaturity, children may find police questioning to be a very trying experience, yet there can be very serious repercussions for them (Forde and Kilkelly, 2024).

The role of the psychologist during the questioning will be a point of support for the juvenile, facilitating communication between him and the proceeding institution. A difficult moment would be interviewing a juvenile who is not cooperating with the interviewer and from this situation, obtaining any valid information within legal norms would be difficult. This prompts the psychologist and in some cases, the police officer or the prosecutor to undertake a process as professional as possible, in order to break the resistance of the uncooperative juvenile. The legal framework, both civil and criminal provides the juvenile with the presence of a psychologist or social worker at every procedural step, where he or she is a party in the procedure. The presence of a forensic psychologist provides assurances and guarantees to the juvenile for the

proper conduct of procedures against him/her as a suspect, accused, or even as a witness (Maloku et al., 2021).

During an interrogation, a psychologist can help formulate questions appropriate for a minor, considering the minor's mental development level. The psychologist can also accurately assess the information presented to the minor during the interrogation. Afterwards, the psychologist can explain to the investigation officer the emotional responses observed in the minor, highlight developmental characteristics and discuss the minor's level of intelligence (Tseveleva et al., 2021).

The treatment of juveniles in the criminal justice system must strike a balance between holding them accountable and promoting their rehabilitation, taking into account their developmental differences from adults. In Kosovo, the legal framework is designed to protect juveniles, acknowledging their potential for rehabilitation. The juvenile justice system highlights the importance of considering both individual personality traits and external factors, such as family environment and socioeconomic status, which can impact delinquent behaviour.

Juvenile delinquents exhibit a wide range of personality traits, necessitating tailored approaches in legal proceedings and rehabilitation efforts. External factors, including family dynamics and peer influences, significantly contribute in shaping the behaviour. Therefore, a holistic approach is essential to effectively address these issues (Ademi, 2023).

Kosovo's legal system distinguishes between younger juveniles (ages 14–16 years) and older juveniles (ages 16–18 years), providing specific protections like the requirement of a defence counsel and confidentiality in proceedings. These measures are intended to protect the rights and well-being of juveniles, recognising their limited understanding of legal processes.

Interrogating juveniles presents unique challenges due to their susceptibility to suggestion and limited comprehension. The presence of psychologists during interrogations ensures appropriate questioning and safeguards the juvenile's rights. Creating a supportive environment during these interrogations can encourage honest responses and help reduce anxiety.

The main objective of the juvenile justice system is rehabilitation rather than punishment. Programmes focussing on education, vocational training and psychological support are vital for helping juveniles reintegrate into society and reducing the likelihood of reoffending. Overall, the system aims to treat juveniles with understanding and support, addressing the root causes of delinquent behaviour while fostering positive outcomes.

Evaluating legal compliance, operational challenges and inter-institutional cooperation

Police officers are obliged to provide protection and security for

citizens and to undertake all necessary actions to investigate all criminal offences and find their perpetrators (Law on Police, 2008). From the questionnaires and interviews conducted with police officers where the questions were oriented to the practice of their work for the treatment of juveniles, knowledge of the legal basis, cooperation as well as the obstacles they may face, the results are as follows.

The work practice of the officers of the patrol units and the sectorial ones is sufficiently consistent with the legal one and the police treat this category with care. Police officers know that their treatment should be special compared to adults. Officials of the detention centre also have good knowledge about the treatment of juveniles and it is practiced that juveniles are not in a room with an adult. According to them, no juvenile can be placed in detention cells without a medical report that confirms the juvenile's health condition. Officials from the investigation unit have good knowledge of the legal basis for the treatment of juveniles, they strictly apply the legal deadlines for emergency proceedings of a criminal case where a juvenile is involved, and this unit has a special office for interviewing juveniles as required by legal and international norms.

In addition to the advantages and progressive developments, there may also be cases when police officers may face obstacles or shortcomings during the treatment of juveniles. The first shortcoming mentioned by the police officers is that often a person brought to the police station has proven that he is a juvenile, which contradicts the legal requirements as this category be treated with care and that it is scary that a juvenile to enter vehicles or police premises without a parent or guardian. The police officials estimate that the principle of publicity is not strictly respected, in such a way that the juvenile remains out of the public's knowledge that he is involved in a criminal offence.

The Basic Prosecution in Prizren considers that the legal basis is sufficient to treat a juvenile with dignity and, in case of conflict between legal provisions, priority is given to international laws. According to the Law on State Prosecutor (2010), each prosecutor is obliged to undertake the necessary legal actions for the detection of criminal offences and the perpetrators of the crime, as well as the investigation and prosecution of criminal offences in a timely manner.

This institution evaluates the cooperation with the police and other institutions as good. But, in addition to this, the small number of prosecutors from the juvenile department creates a burden, difficulty and lack of efficiency. They consider that there is a lack of sufficient institutions for the practical implementation of legal solutions in terms of preventing the commission of criminal offences in the future. As another shortcoming highlighted is that many diversities and alternative measures are being applied and that in reality, the effect of the sanction is not being achieved because the same juvenile repeat the criminal offences.

The Basic Court in Prizren, like other basic courts in Kosovo, is competent to judge in the first instance all cases as provided by law (Law on Courts, 2010). Judges from the department for juveniles emphasise that the legal infrastructure is sufficient for the treatment of juveniles. The cooperation with other institutions is evaluated as good, with small obstacles that do not represent significant barriers. The main shortcoming is the small number of judges in this department, as well as the impossibility of implementing some of the measures due to lack of relevant institutions.

The study on the treatment of juveniles by police, prosecutors and judges in Prizren, Kosovo, reveals a generally robust legal and institutional framework, yet highlights several practical challenges. While police officers demonstrate a solid understanding of legal protocols, treating juveniles with care and ensuring they are separated from adults, concerns arise due to the delayed identification of juveniles and insufficient enforcement of privacy protections. Moreover, the system's efficiency and effectiveness are hindered by a limited number of specialised prosecutors and judges, as well as a shortage of institutions dedicated to rehabilitation.

Although cooperation among the police, prosecution and judiciary is generally strong, resource constraints limit the effectiveness of this collaboration. Despite the application of various sanctions and alternative measures, there is concern that these strategies do not sufficiently prevent re-offending among juveniles. To improve the system, it is essential to enhance the training of police officers, increase the number of specialised personnel and establish more rehabilitation institutions. In addition, a review of the current sanctions' effectiveness is necessary to ensure that the juvenile justice system not only punishes but also rehabilitates and reintegrates young offenders.

CONCLUSION

This study offers a detailed exploration of how juvenile personality traits impact behaviour and outcomes in criminal proceedings, the sufficiency of Kosovo's legal framework in safeguarding juvenile rights and the effects of improved training for law enforcement and judicial personnel in handling juvenile cases. The key findings suggest that while Kosovo's legal framework is strong, its practical implementation faces difficulties, particularly in the appropriate treatment of juveniles during interrogations and legal processes.

The research highlights that juvenile personality traits have a significant influence on behaviour and outcomes in criminal proceedings. Given the developmental differences of juveniles, tailored approaches are necessary to ensure fair and accurate outcomes. The study also points out the critical role of psychological support during interrogations to

counteract juveniles' vulnerability to suggestion and limited understanding of legal processes.

Moreover, despite Kosovo's thorough legal protections for juveniles, practical implementation is hampered by resource limitations and a lack of specialised personnel. Police officers, prosecutors and judges generally understand legal protocols, but there are issues with the delayed identification of juveniles and insufficient privacy protections. The shortage of specialised prosecutors and judges, coupled with a lack of rehabilitation institutions, further hinders the effectiveness of the juvenile justice system.

The findings of the study underline the need to enhance training for law enforcement and judicial personnel to manage juvenile cases in a better manner. Increased specialisation and resources are crucial for the effective implementation of legal protections and rehabilitation efforts. In addition, the findings advocate for a holistic approach that considers both individual personality traits and external factors like family environment and socioeconomic status in addressing juvenile delinquency.

Future research should focus on evaluating the effectiveness of current sanctions and alternative measures in preventing juvenile re-offending. Examining the long-term effects of psychological support during interrogations and the role of rehabilitation programmes in reintegrating juveniles into society would provide valuable insights. Practical applications of these findings include creating targeted training programmes for law enforcement and judicial personnel, establishing more rehabilitation institutions and reassessing current sanctions to enhance their rehabilitative impact.

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