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An Interpretative Analysis of Article 55 of the Albanian Criminal Code: Cumulative Sentencing of Juvenile Offenders and Current Challenges in Albanian Case Law

Enkelejda Meçka

Prosecutor of the Republic of Albania, Albania

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Abstract

The institution of cumulative sentencing, as regulated by Article 55 of the Criminal Code, constitutes an important mechanism of criminal law that governs the determination of punishment in cases where a person has committed more than one criminal offence. The application of this institution to juveniles presents particular legal challenges due to the special nature of juvenile criminal responsibility and the principles governing the juvenile justice system, including the best interests of the child, proportionality, rehabilitation, and social reintegration. This paper analyses the Albanian legal framework governing cumulative sentencing for juveniles, with particular emphasis on the relationship between the provisions of the Criminal Code and those of the Juvenile Criminal Justice Code. Special attention is devoted to the issues arising in judicial practice concerning the maximum custodial sentence of 12 years established by Article 97 of the Juvenile Criminal Justice Code and the impact that the application of the rules on cumulative sentencing may have on this statutory limit. Through an analysis of national legislation, international standards, and relevant case law, the paper seeks to clarify the legal nature of the maximum sentence applicable to juveniles, to examine whether this limit may be exceeded in cases involving cumulative sentencing, and to assess the compatibility of such an interpretation with the fundamental principles of juvenile criminal justice. In conclusion, the study highlights the interpretative and practical challenges arising from the application of this institution and emphasizes the need for a consistent and unified approach that ensures the effective protection of the rights of juveniles in conflict with the law.

Keywords: juveniles in conflict with the law; cumulative sentencing; juvenile criminal responsibility; custodial sentence; Article 97 of the Juvenile Criminal Justice Code; rehabilitation; best interests of the child.

I. Introduction

Juvenile criminal justice is one of the most sensitive areas of criminal law because

it concerns individuals who are at a crucial stage of their physical, psychological, and social development. For this reason, Albanian legislation, in accordance with international and European standards on the protection of children's rights, has established a special legal framework for juveniles in conflict with the law. This framework is founded on the principles of the best interests of the child, proportionality, rehabilitation, and social reintegration. Juvenile criminal responsibility refers to the legal capacity of minors to understand the nature and consequences of their conduct and to be held accountable for violations of criminal law. Unlike adults, the criminal responsibility of juveniles is assessed by considering their age, level of maturity, and ability to appreciate the significance of their actions. Under Albanian law, the minimum age of criminal responsibility is 14 years. Individuals between the ages of 14 and 18 are regarded as juveniles and are therefore subject to a distinct system of criminal justice. This differentiated approach reflects the objective of promoting education and rehabilitation while minimizing, whenever possible, the harmful effects of early exposure to the criminal justice system. At the international level, major legal instruments, including the United Nations Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), do not prescribe a uniform minimum age of criminal responsibility. Instead, they require States to establish a reasonable minimum age, taking into account children's emotional, psychological, and intellectual maturity. These instruments emphasize that the primary objective of juvenile justice should be the education, rehabilitation, and social reintegration of the child. Accordingly, sentences imposed on juveniles should be executed in specialized institutions or in separate sections of penitentiary institutions designed specifically for juveniles. The separation of juveniles from adult offenders, together with the provision of educational, vocational, psychological, and rehabilitative programmes, constitutes a fundamental element of the juvenile justice system. One of the legal institutions that raises significant issues in this context is cumulative sentencing. This institution governs the determination of a single sentence where an offender has committed multiple criminal offences or is subsequently convicted of additional offences committed before the previous conviction became final. In relation to juveniles, the application of cumulative sentencing requires particular attention, as it must remain consistent with the fundamental principles of juvenile justice and avoid imposing disproportionately severe sanctions that could undermine the educational and rehabilitative purpose of criminal punishment. Article 55 of the Criminal Code of the Republic of Albania regulates cumulative sentencing. It provides that where a person's acts or omissions constitute multiple criminal offences, or where several criminal offences have been committed before a final judgment has been delivered, the court shall first determine the sentence for each offence separately and shall subsequently impose a single sentence based on the most severe punishment, in accordance with the statutory rules governing the aggregation of sentences. The practical application of this institution to juveniles has, however, generated considerable interpretative difficulties in judicial practice. One of the principal issues

concerns the relationship between Article 51 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code, particularly regarding the determination of the maximum custodial sentence that may be imposed on juvenile offenders. Article 51 of the Criminal Code provides that where the offender was under the age of 18 at the time of committing the criminal offence, the sentence imposed may not exceed one-half of the punishment prescribed by law for that offence. The provision further refers to the special sentencing rules contained in the Juvenile Criminal Justice Code. In turn, Article 97 of the Juvenile Criminal Justice Code provides that a custodial sentence imposed on a juvenile shall not exceed one-half of the sentence applicable to an adult offender and, in any event, shall not exceed 12 years' imprisonment. These statutory limitations reflect the philosophy underlying juvenile criminal justice, which prioritizes rehabilitation, social reintegration, and the best interests of the child, rather than the predominantly punitive objectives of the adult criminal justice system. Nevertheless, an important interpretative question arises as to whether the statutory maximum of 12 years' imprisonment constitutes an absolute limit applicable in all circumstances, including cases involving cumulative sentencing, or whether the rules governing the aggregation of sentences may exceptionally justify exceeding that limit.

Against this background, this paper examines the legal relationship between Article 51 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code and analyses their impact on the application of cumulative sentencing to juveniles. In particular, the study seeks to answer the following research questions:

- Does the maximum sentence of 12 years' imprisonment established by Article 97 of the Juvenile Criminal Justice Code constitute an absolute limit applicable to every custodial sentence imposed on a juvenile?
- Can the rules governing cumulative sentencing be interpreted as an implicit exception to the statutory limitations established by Article 97?
- What is the normative relationship between Article 51 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code in determining the maximum custodial sentence applicable to juveniles?
- Would an interpretation allowing the 12-year limit to be exceeded be compatible with the principle of the best interests of the child and the rehabilitative objectives of the juvenile justice system?
- Do the limited institutional capacities and infrastructure of specialized juvenile detention facilities in Albania affect the effective execution of long-term custodial sentences and the achievement of rehabilitation and social reintegration?

In addition to the legal issues concerning sentence determination, the execution of custodial sentences imposed on juveniles presents significant practical challenges. Although Albanian legislation provides for a specialized regime governing the treatment of convicted juveniles, the availability of dedicated juvenile correctional institutions remains limited. This issue becomes particularly significant in cases involving long-term imprisonment, where questions arise as to whether the existing penitentiary infrastructure is capable of ensuring the specialized treatment, education,

rehabilitation, and social reintegration required by both domestic legislation and international standards. Consequently, alongside the analysis of the legal framework governing cumulative sentencing, this paper also examines the practical capacity of the Albanian penitentiary system to fulfil the objectives of juvenile criminal justice.

2. Methodology

This study adopts a doctrinal legal research methodology based on the analysis of national and international legal sources governing juvenile criminal responsibility and the institution of cumulative sentencing. In particular, the research examines the relevant provisions of the Criminal Code of the Republic of Albania, the Juvenile Criminal Justice Code, and the principal international legal instruments establishing standards for juvenile justice, including the United Nations Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). The study further employs interpretative and comparative methods to examine the relationship between the legal provisions governing cumulative sentencing and the special sentencing limitations applicable to juveniles under Albanian law. To this end, relevant legal doctrine and judicial practice are analysed in order to identify the principal interpretative issues arising from the application of cumulative sentencing to juvenile offenders. Particular emphasis is placed on the analysis of case law, which serves to illustrate how courts have interpreted and applied the relevant statutory provisions in concrete cases. This analysis enables an assessment of whether judicial practice is consistent with the fundamental principles of juvenile criminal justice, particularly the principles of the best interests of the child, proportionality, rehabilitation, and social reintegration.

3. Legal Framework

3.1 Albanian Legal framework

The legal framework governing juvenile criminal responsibility and the imposition of criminal sanctions on juveniles is established through a series of legislative acts that define the substantive rules, procedural guarantees, and institutional safeguards applicable to juveniles in conflict with the law. These legal instruments must be interpreted in a coherent and systematic manner, taking into account the special legal status of juveniles and the fundamental principles underpinning the juvenile justice system. The analysis begins with the Constitution of the Republic of Albania, which constitutes the supreme law of the country and forms the constitutional foundation for the protection of fundamental rights and freedoms (Article 15 of the Constitution). The Constitution also provides specific guarantees for the protection of children and juveniles, recognizing their special status within the chapter on economic, social, and cultural rights. Consistent with the principle of the best interests of the child, the Constitution provides that children, young persons, pregnant women, and new mothers are entitled to special protection by the State. It further guarantees every

child the right to protection against violence, abuse, exploitation, and any form of labour that may endanger the child's health, morals, life, or normal development. In particular, the Constitution prohibits the employment of children below the minimum age established by law and imposes a positive obligation on the State to adopt effective measures to safeguard their welfare and development (Article 54 of the Constitution of the Republic of Albania). The substantive rules governing criminal liability and sentencing are contained in the Criminal Code of the Republic of Albania. The Code regulates criminal offences, criminal sanctions, and general criminal law institutions, including cumulative sentencing. Its provisions apply to juveniles unless they are superseded by the special provisions contained in the Juvenile Criminal Justice Code. Of particular relevance to this study are the provisions governing juvenile sentencing and Article 55 of the Criminal Code, which establishes the rules on cumulative sentencing where a person has committed multiple criminal offences. The adoption of the Juvenile Criminal Justice Code marked a significant reform of the Albanian juvenile justice system by introducing a comprehensive legal framework specifically tailored to children in conflict with the law. The Code establishes special rules governing criminal proceedings, sentencing, and the execution of criminal judgments against juveniles, reflecting the standards established by international and European juvenile justice instruments. It is founded upon the principles of the best interests of the child, rehabilitation, social reintegration, restorative justice, and the use of deprivation of liberty only as a measure of last resort. For the purposes of this study, particular importance is attached to the provisions governing the maximum custodial sentence that may be imposed on juveniles and the rules regulating the execution of custodial sentences. The Criminal Procedure Code complements this legislative framework by regulating the procedures applicable to criminal investigations, trials, and the enforcement of criminal judgments. Although proceedings involving juveniles are primarily governed by the Juvenile Criminal Justice Code, the provisions of the Criminal Procedure Code continue to apply where the special legislation does not provide otherwise. Accordingly, it remains an important source for the interpretation and application of Albanian criminal procedure in cases involving juveniles.

3.2 International instruments

The Albanian juvenile criminal justice system has been developed in accordance with the standards established by international and regional human rights instruments concerning the protection of children's rights. These instruments constitute authoritative sources for the interpretation and application of domestic legislation and judicial practice and have significantly influenced the development of Albanian juvenile justice legislation. The United Nations Convention on the Rights of the Child (CRC), adopted on 20 November 1989 and ratified by the Republic of Albania through Law No. 7531 of 11 December 1991, is the principal international instrument governing the protection of children's rights (United Nations, 1989). The Convention establishes the fundamental standards that States Parties must observe in their treatment of children, including children in conflict with the law. One of

the Convention's core principles is enshrined in Article 3(1), which provides that, in all actions concerning children undertaken by public or private institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration (United Nations, 1989, art. 3). This principle constitutes the cornerstone of the juvenile justice system and serves as the primary interpretative standard for all decisions affecting children. Furthermore, Article 40 of the Convention recognizes the right of every child alleged, accused, or recognized as having infringed criminal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, reinforces respect for human rights and fundamental freedoms, and facilitates the child's reintegration into society while promoting the assumption of a constructive role within the community (United Nations, 1989, art. 40). Consequently, the Convention emphasizes that juvenile justice should pursue educational and rehabilitative objectives rather than purely punitive ones. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the United Nations General Assembly through Resolution 40/33 on 29 November 1985, constitute one of the most influential international instruments in the field of juvenile justice (United Nations, 1985). The Beijing Rules advocate a distinct approach to juvenile offenders that prioritizes their welfare, education, and social reintegration. Rule 5.1 establishes that the juvenile justice system should promote the well-being of the child, while Rule 17.1 requires that any judicial response be proportionate not only to the gravity of the offence but also to the circumstances and needs of the juvenile offender (United Nations, 1985). Moreover, Rule 19.1 provides that institutionalization should be imposed only as a measure of last resort and for the shortest appropriate period of time (United Nations, 1985). Collectively, these standards reinforce the principle that juvenile justice should be fundamentally rehabilitative rather than punitive. The United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), adopted by the United Nations General Assembly through Resolution 45/112 on 14 December 1990, complement the Convention and the Beijing Rules by emphasizing the prevention of juvenile delinquency rather than relying solely on criminal justice interventions (United Nations, 1990). The Guidelines stress the importance of comprehensive educational, social, family, and community-based policies that promote the healthy development of children and reduce the likelihood of their involvement in criminal behaviour. They further emphasize that measures affecting juveniles should foster personal development, strengthen family and community integration, and expand educational and rehabilitation opportunities. In doing so, the Riyadh Guidelines reinforce both the principle of the best interests of the child and the rehabilitative philosophy that underpins modern juvenile justice systems (United Nations, 1990).

4. Sentencing of juveniles in conflict with the law

In Albanian criminal law doctrine, sentencing refers to the final stage of criminal proceedings, during which the court, after establishing the defendant's criminal

responsibility, determines and imposes the appropriate criminal sanction in accordance with the applicable legal framework (Elezi, Kaçupi, & Haxhia, 2021). This stage represents the culmination of the judicial process of individualizing criminal responsibility by ensuring that the sanction imposed is proportionate to both the offence committed and the characteristics of the offender. As discussed previously, juvenile criminal justice differs fundamentally from the adult criminal justice system. Rather than emphasizing punishment, it is founded upon the principle of the **best** interests of the child, which requires that every decision affecting a juvenile offender prioritize the child's welfare, education, rehabilitation, and social reintegration (United Nations, 1989, art. 3). Consequently, Albanian legislation seeks, wherever possible, to avoid formal criminal proceedings and, where prosecution is unavoidable, to prioritize alternatives to deprivation of liberty. The Juvenile Criminal Justice Code establishes a comprehensive range of diversionary and restorative measures designed to prevent unnecessary criminal prosecution and facilitate the rehabilitation of juveniles within the community (Juvenile Criminal Justice Code, 2017). These measures include restorative justice programmes, mediation, counselling for juveniles and their families, oral and written warnings, diversion measures, protective measures, and placement under appropriate care. This legislative framework reflects the rehabilitative philosophy of juvenile justice, according to which education, social reintegration, and the minimization of the harmful effects of criminal proceedings constitute the primary objectives of judicial intervention (United Nations, 1985). Accordingly, when determining an appropriate sentence, courts must apply not only the principle of the best interests of the child but also the principle that deprivation of liberty constitutes a measure of last resort (*ultima ratio*) and should be imposed only where less restrictive alternatives are insufficient to achieve the legitimate objectives of juvenile justice (United Nations, 1989, art. 37; United Nations, 1985, Rule 19.1). A distinctive feature of Albanian juvenile criminal procedure is the mandatory preparation of an individual assessment report. Before determining the appropriate judicial response, the prosecutor or the court must evaluate numerous factors relating to the juvenile's personal circumstances, including psychological and emotional development, educational background, health condition, family environment, social circumstances, and other relevant characteristics (Juvenile Criminal Justice Code, 2017). The purpose of this assessment is to provide a comprehensive understanding of the juvenile's personality, level of maturity, specific needs, and potential for rehabilitation. The individual assessment report also evaluates the risk of reoffending, identifies any special protection or treatment needs, and recommends the most appropriate measures to promote the juvenile's rehabilitation and social reintegration. Under the Juvenile Criminal Justice Code, the report must be considered at several stages of criminal proceedings, including decisions concerning diversionary measures, sentencing, execution of criminal sanctions, and applications for conditional release (Juvenile Criminal Justice Code, 2017). The Albanian juvenile justice system distinguishes between non-custodial and custodial sanctions. Non-custodial sanctions include restriction of liberty, home

confinement, fines, community service, prohibition from engaging in specified activities, and the fulfilment of specific obligations. Custodial sanctions consist exclusively of imprisonment, which represents the most severe sanction available for juvenile offenders. Furthermore, Albanian legislation classifies criminal sanctions into principal and supplementary penalties. Principal penalties include imprisonment, restriction of liberty, and fines, whereas supplementary penalties include community service, prohibition from engaging in specified activities, home confinement, and the fulfilment of specific obligations. As a general rule, the court may impose only one principal penalty, which may be accompanied by a single supplementary penalty (Juvenile Criminal Justice Code, 2017). Imprisonment constitutes the most restrictive criminal sanction that may be imposed on a juvenile offender. Pursuant to Article 97 of the Juvenile Criminal Justice Code, a custodial sentence may be imposed only where the juvenile has committed an offence punishable by a minimum statutory sentence of seven years' imprisonment and where, having regard to the gravity of the offence, the degree of criminal responsibility, and the circumstances of the case, deprivation of liberty is considered necessary (Juvenile Criminal Justice Code, 2017). The Code also establishes strict statutory limitations on the duration of custodial sentences imposed on juveniles. A custodial sentence may not exceed one-half of the sentence prescribed for an adult offender convicted of the same offence and, in all circumstances, may not exceed 12 years' imprisonment (Juvenile Criminal Justice Code, 2017, art. 97). These limitations reflect the fundamental principles of juvenile justice, namely proportionality, rehabilitation, and the best interests of the child. In determining the appropriate sentence, the court must consider the juvenile's degree of maturity, educational and vocational needs, family circumstances, and prospects for rehabilitation. Where the objectives of criminal justice can be achieved through a less restrictive sanction, the court is required to impose the least severe measure capable of fulfilling those objectives, thereby ensuring that the sentence remains proportionate to both the offender and the offence.

The Criminal Code of the Republic of Albania complements these guarantees by establishing special sentencing rules for juvenile offenders. Article 51 provides that where the offender was under the age of eighteen at the time of the commission of the offence, the sentence imposed may not exceed one-half of the punishment prescribed by law for an adult offender. The provision further refers to the Juvenile Criminal Justice Code for the special rules governing the determination and individualization of sentences imposed on juveniles, thereby reinforcing the principle that juvenile offenders are subject to a differentiated sentencing regime designed to promote rehabilitation rather than punishment (Criminal Code of the Republic of Albania, art. 51).

5. The Legal Framework Governing Cumulative Sentencing under Article 55 of the Criminal Code

The institution of cumulative sentencing applies where a person has committed two or more criminal offences, whether simultaneously or at different times, and those

offences are adjudicated within a single criminal proceeding. Its principal function is to regulate the determination of a single final sentence by establishing the legal criteria governing the aggregation of penalties. Consequently, cumulative sentencing cannot be examined independently of the broader law of sentencing, as it is intrinsically linked to the offender's criminal responsibility and the legal characterization of the offences committed (Elezi et al., 2021). The primary purpose of cumulative sentencing is to ensure the proper individualization of punishment in each case. In determining the appropriate sentence, the court must conduct a comprehensive assessment of all relevant circumstances, including the nature and gravity of each offence, the offender's degree of culpability, and the offender's personal characteristics. This process seeks to ensure that the final sentence complies with the principles of legality, proportionality, and individualized justice (Ashworth & Roberts, 2013). Accordingly, where an offender is convicted of multiple criminal offences, the court does not impose separate sentences to be executed independently. Instead, it determines a single final sentence based on the statutory system of cumulative sentencing. Under Albanian law, this system is based on the principle of the most severe sentence with incremental additions, whereby the most severe individual sentence serves as the basis for determining the final sentence, to which additional penalties may be added within the statutory limits established by law (Criminal Code of the Republic of Albania, 1995, art. 55). Article 55 of the Criminal Code of the Republic of Albania regulates cumulative sentencing by providing that where a person's acts or omissions constitute several criminal offences, or where multiple offences have been committed before a final judgment has been rendered, the court must first determine the sentence for each offence separately and subsequently impose a single final sentence. The final sentence consists of the most severe sentence, increased in accordance with the statutory rules governing cumulative sentencing. However, the final sentence may not exceed either the aggregate of the individual sentences or the statutory maximum prescribed for the relevant type of punishment. Where the court concludes that the commission of multiple offences does not demonstrate a particularly high degree of dangerousness on the part of the offender, it may impose as the final sentence only the most severe of the individual sentences. The court may also impose one or more supplementary penalties that have been determined for the individual offences (Criminal Code of the Republic of Albania, 1995, art. 55). A systematic interpretation of Article 55 indicates that three cumulative conditions must be satisfied before the institution of cumulative sentencing may be applied. First, the offender must have committed two or more legally distinct criminal offences. Each offence must constitute an independent violation of criminal law and carry its own statutory sanction. The legal autonomy of each offence is therefore preserved despite their procedural consolidation. Second, all offences must have been committed by the same offender. This requirement reflects the purpose of cumulative sentencing, namely the determination of a single final sentence that takes into account the offender's overall criminal conduct. Third, no final judgment must have been rendered in respect of any of the offences before the commencement of the joint proceedings. Accordingly, all

offences must be adjudicated within the same criminal trial. Where one offence has already been the subject of a final judgment, Article 55 is no longer applicable. Instead, the legal framework governing the aggregation of sentences under Article 56 of the Criminal Code applies. The essential distinction between these two legal institutions therefore lies in the procedural stage at which the offences are adjudicated and the existence of a prior final judgment (Criminal Code of the Republic of Albania, 1995, arts. 55–56). One of the most controversial issues in Albanian judicial practice concerns the application of cumulative sentencing to juvenile offenders, particularly regarding the maximum custodial sentence that may lawfully be imposed. This issue arises from the interaction between the general rules on cumulative sentencing contained in the Criminal Code and the special sentencing provisions governing juveniles under the Juvenile Criminal Justice Code.

Article 51 of the Criminal Code provides that where the offender was under the age of eighteen at the time of the commission of the offence, the sentence imposed may not exceed one-half of the punishment prescribed for an adult offender (Criminal Code of the Republic of Albania, 1995, art. 51). In addition, Article 97 of the Juvenile Criminal Justice Code establishes further safeguards by providing that imprisonment may be imposed only for offences carrying a statutory minimum sentence of at least seven years' imprisonment and that, in all circumstances, the custodial sentence imposed on a juvenile may neither exceed one-half of the sentence applicable to an adult nor exceed twelve years' imprisonment (Juvenile Criminal Justice Code, 2017, art. 97). Against this legislative background, an important interpretative question arises: can the application of Article 55 lead to a final custodial sentence exceeding the statutory maximum of twelve years established by Article 97 of the Juvenile Criminal Justice Code? A systematic and teleological interpretation of juvenile criminal legislation supports the conclusion that the statutory maximum established by Article 97 constitutes an absolute limit that should not be exceeded, even in cases involving cumulative sentencing. This interpretation is consistent with the fundamental principles underlying juvenile criminal justice, namely rehabilitation, education, proportionality, social reintegration, and the best interests of the child (United Nations, 1989, arts. 3 & 40; United Nations Committee on the Rights of the Child, 2019). From this perspective, imposing a custodial sentence substantially exceeding twelve years would undermine the rehabilitative function of juvenile justice and diminish the distinction between the treatment of juvenile and adult offenders. Such an outcome would be inconsistent with both Albanian juvenile justice legislation and international standards, which recognize deprivation of liberty as a measure of last resort and for the shortest appropriate period of time (United Nations, 1985, Rule 19.1; United Nations, 1989, art. 37).

Accordingly, the statutory maximum of twelve years' imprisonment should be regarded as a substantive legal guarantee protecting the best interests of the child. It serves to preserve the balance between society's legitimate interest in responding effectively to serious criminal conduct and the overriding objective of juvenile justice, namely the rehabilitation and successful reintegration of juvenile

offenders. Excessively severe custodial sentences risk frustrating these objectives by reducing opportunities for rehabilitation and shifting the juvenile justice system towards a predominantly punitive model that is incompatible with contemporary international standards. Nevertheless, Albanian judicial practice has increasingly adopted a different interpretation. Several courts have concluded that Article 51 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code apply only during the individual determination of the sentence for each separate offence. Once those sentences have been determined, the courts have applied Article 55 of the Criminal Code to calculate the final sentence according to the principle of the most severe sentence with incremental additions. Under this interpretation, the statutory maximum of twelve years does not necessarily operate as an absolute ceiling on the final cumulative sentence but only as a limitation applicable to each individual sentence imposed for a separate offence. Albanian judicial practice has adopted an interpretation that differs from the view that the statutory maximum of twelve years' imprisonment established by Article 97 of the Juvenile Criminal Justice Code constitutes an absolute limit. Instead, recent case law has interpreted the relationship between Article 51 and Article 55 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code as permitting, in exceptional circumstances, the imposition of a final cumulative sentence exceeding twelve years' imprisonment.

The reasoning adopted by the courts is based on the distinction between the individualization of the sentence for each criminal offence and the subsequent determination of the final cumulative sentence. According to this approach, Articles 51 of the Criminal Code and 97 of the Juvenile Criminal Justice Code apply exclusively during the determination of the sentence for each individual offence. Once those statutory limitations have been respected, Article 55 of the Criminal Code governs the determination of the final sentence through the mechanism of cumulative sentencing (Criminal Code of the Republic of Albania, 1995, arts. 51, 55; Juvenile Criminal Justice Code, 2017, art. 97). The courts have reasoned that applying Articles 51 and 97 a second time during the determination of the final cumulative sentence would amount to an impermissible double application of the same statutory limitations and would undermine the purpose of Article 55. Consequently, where a juvenile has committed multiple serious criminal offences, the aggregation of the individual sentences may lawfully result in a final sentence exceeding the statutory maximum of twelve years. Judicial practice has characterized such cases as exceptional, justified not by the seriousness of a single offence but by the cumulative gravity of several distinct criminal offences. An important illustration of this jurisprudential development is Decision No. 235 (13-2023-2026) of the Court of First Instance of General Jurisdiction of Elbasan (2023). In that case, the juvenile defendant, E.K., was convicted of one count of aggravated murder committed in complicity and two counts of attempted aggravated murder. The court imposed individual custodial sentences of twelve years for the completed offence and ten years for each attempted offence. Applying Article 55 of the Criminal Code, the court subsequently imposed a single cumulative sentence of twenty-seven years' imprisonment. The decision demonstrates the court's

position that the twelve-year limitation established by Article 97 of the Juvenile Criminal Justice Code does not constitute an absolute ceiling when determining the final cumulative sentence (Court of First Instance of General Jurisdiction of Elbasan, 2023). The reasoning adopted in this judgment reflects the view that Articles 51 of the Criminal Code and 97 of the Juvenile Criminal Justice Code regulate only the determination of the sentence for each separate offence, whereas Article 55 governs the subsequent aggregation of those sentences into a single final sentence. Under this interpretation, the statutory limitation of twelve years applies only at the first stage of sentencing and not during the calculation of the cumulative sentence. A similar approach can be observed in Decision No. 41-2017-482(73) of the Korçë District Court (2017). The juvenile defendant was convicted of attempted intentional homicide, aggravated murder, and unlawful possession of firearms and ammunition. During the individualization of punishment, the court first applied Article 51 of the Criminal Code by reducing the sentence for aggravated murder from twenty-six years to thirteen years' imprisonment. The remaining individual sentences were likewise reduced in accordance with the statutory provisions applicable to juveniles. Subsequently, applying Article 55 of the Criminal Code, the court imposed a final cumulative sentence of eighteen years' imprisonment. Although this decision predates the entry into force of the Juvenile Criminal Justice Code, it demonstrates that Albanian courts had already recognized the distinction between the individualization of punishment for each offence and the determination of the final cumulative sentence. The decision therefore represents an important precursor to the current jurisprudential approach (Korçë District Court, 2017). A comparable interpretation was adopted by the Court of First Instance of General Jurisdiction of Tirana in proceedings against the juvenile defendant M.P., who was convicted of aggravated murder and attempted aggravated murder. The court imposed individual custodial sentences of twelve years and ten years, respectively, before determining a final cumulative sentence of sixteen years' imprisonment pursuant to Article 55 of the Criminal Code. Once again, the court concluded that the statutory limitation contained in Article 97 did not prevent the imposition of a cumulative sentence exceeding twelve years where multiple serious offences had been committed (Court of First Instance of General Jurisdiction of Tirana, n.d.). The foregoing decisions demonstrate a consistent tendency in recent Albanian case law to distinguish between the statutory limitations governing individual sentences imposed on juveniles and the legal mechanism governing cumulative sentencing. Under this approach, the twelve-year maximum established by Article 97 is regarded as applicable only to each individual sentence and not necessarily to the final cumulative sentence resulting from the application of Article 55 of the Criminal Code. Nevertheless, this interpretation remains controversial. From a systematic and teleological perspective, the statutory safeguards established by Articles 51 of the Criminal Code and 97 of the Juvenile Criminal Justice Code are intended to ensure the differentiated treatment of juvenile offenders in accordance with the principles of rehabilitation, proportionality, and the best interests of the child (United Nations, 1989; United Nations Committee on the Rights of the Child, 2019). Interpreting Article

55 as permitting unlimited cumulative sentencing risks weakening these safeguards by allowing juvenile offenders to receive custodial sentences comparable to those imposed on adults. Accordingly, although cumulative sentencing may exceptionally justify a sentence exceeding twelve years where several particularly serious offences have been committed, such an interpretation should remain narrowly confined to exceptional circumstances. Courts must continue to balance the legitimate interest in responding effectively to serious criminality with the overriding objectives of juvenile justice, namely rehabilitation, education, and social reintegration. Only a harmonized interpretation of Article 55 of the Criminal Code together with Articles 51 of the Criminal Code and 97 of the Juvenile Criminal Justice Code can preserve the distinct rehabilitative character of the Albanian juvenile justice system.

6. Compatibility of Extended Custodial Sentences with the Objectives of Juvenile Justice

A further issue arising from recent Albanian case law concerns the compatibility of lengthy custodial sentences with the fundamental philosophy and objectives of the juvenile criminal justice system. As discussed above, Albanian courts have, in several cases, interpreted Article 55 of the Criminal Code as permitting the imposition of cumulative custodial sentences of 16, 18, and even 27 years' imprisonment on juvenile offenders, thereby exceeding the statutory maximum of 12 years established by Article 97 of the Juvenile Criminal Justice Code (Court of First Instance of General Jurisdiction of Elbasan, 2023; Korçë District Court, 2017). Although this interpretation has been justified on the basis of the exceptional nature of cumulative sentencing and the commission of multiple serious criminal offences, its compatibility with the underlying philosophy of juvenile justice remains open to question. The Juvenile Criminal Justice Code is founded upon the principles of the best interests of the child, rehabilitation, education, restorative justice, and social reintegration. These principles require that criminal sanctions imposed on juveniles pursue educational and rehabilitative objectives rather than predominantly punitive ones (Juvenile Criminal Justice Code, 2017). This legislative approach is fully consistent with international human rights standards. Article 37(b) of the Convention on the Rights of the Child provides that the arrest, detention, or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time (United Nations, 1989, art. 37). Likewise, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) emphasize that the primary objective of juvenile justice is the promotion of the juvenile's well-being and that any restriction of liberty should be limited to the minimum necessary to achieve legitimate criminal justice objectives (United Nations, 1985, Rules 5.1 & 19.1). Similarly, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) provide that deprivation of liberty should be imposed only in exceptional circumstances and should be accompanied by comprehensive educational, vocational, psychological, and rehabilitative programmes designed

to facilitate the juvenile's successful reintegration into society (United Nations, 1990a). Furthermore, the United Nations Committee on the Rights of the Child has emphasized that excessively punitive sentencing practices are incompatible with the objectives of child justice and that States should ensure that sentencing policies promote rehabilitation and the child's constructive role in society (United Nations Committee on the Rights of the Child, 2019). The proportionality of lengthy custodial sentences must also be assessed in light of the institutional realities of the Albanian penitentiary system. Albania currently operates only one specialized institution for juveniles deprived of their liberty—the Juvenile Institution in Kavajë—which has a relatively limited accommodation capacity of approximately forty places (General Directorate of Prisons, 2023). The existence of a single specialized institution reflects the legislative intention that juveniles should receive differentiated treatment focused on education, rehabilitation, and individualized support rather than prolonged institutional isolation. From a criminological perspective, prolonged deprivation of liberty presents significant challenges to the achievement of rehabilitation. Extended custodial sentences weaken family relationships, interrupt educational and vocational development, reduce opportunities for social integration, and may increase the risk of institutionalization and recidivism (Goldson & Muncie, 2015). These concerns are particularly acute where the custodial sentence extends well beyond the juvenile years, resulting in a substantial portion of the sentence being served after the offender reaches adulthood. In such circumstances, the educational and rehabilitative rationale that justifies the existence of a distinct juvenile justice system becomes progressively more difficult to achieve. The limited institutional capacity of the Albanian juvenile correctional system further exacerbates these concerns. The restricted accommodation capacity of the specialized juvenile institution raises legitimate questions regarding the practical ability of the penitentiary system to provide individualized treatment, educational programmes, psychological services, vocational training, and reintegration measures for juveniles serving lengthy custodial sentences. Consequently, the effectiveness of the statutory guarantees established by the Juvenile Criminal Justice Code depends not only on their formal legal recognition but also on the institutional capacity to implement them in practice. Accordingly, although cumulative sentencing may exceptionally justify a more severe criminal sanction in cases involving multiple particularly serious offences, permitting custodial sentences substantially exceeding the statutory maximum of twelve years raises important concerns regarding compliance with both domestic juvenile justice legislation and international children's rights standards. Such an interpretation risks shifting the juvenile justice system away from its rehabilitative orientation toward a predominantly punitive model, thereby weakening the distinct legal safeguards afforded to juveniles.

Ultimately, the interpretation of Article 55 of the Criminal Code should seek to reconcile two competing objectives: the need to ensure a proportionate criminal response to exceptionally serious offending and the obligation to preserve the rehabilitative character of juvenile justice. Maintaining this balance is essential to

safeguarding the best interests of the child and ensuring that juvenile sentencing remains consistent with both Albanian constitutional principles and the international standards governing child justice.

7. Conclusions and Recommendations

This study demonstrates that the institution of cumulative sentencing under Article 55 of the Criminal Code of the Republic of Albania constitutes an important mechanism for the individualization of criminal punishment in cases involving multiple criminal offences. By enabling the imposition of a single final sentence, the provision seeks to reconcile the principles of proportionality, legality, and unity of punishment while ensuring an appropriate criminal response to the offender's overall conduct (Criminal Code of the Republic of Albania, 1995). The application of cumulative sentencing to juvenile offenders presents distinctive legal challenges because it must be interpreted in light of the special principles governing juvenile criminal justice. Unlike the adult criminal justice system, juvenile justice prioritizes the best interests of the child, rehabilitation, education, and social reintegration over retribution and deterrence (Juvenile Criminal Justice Code, 2017; United Nations, 1989). The analysis further demonstrates that an important interpretative controversy exists regarding the relationship between Article 51 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code. In particular, uncertainty remains as to whether the statutory maximum sentence of twelve years' imprisonment constitutes an absolute limit applicable to every custodial sentence imposed on a juvenile offender or whether that limit may be exceeded through the application of Article 55 governing cumulative sentencing. Recent Albanian case law has generally adopted the view that the statutory limitations established by Article 51 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code apply only during the determination of the sentence for each individual offence. According to this interpretation, once those individual sentences have been established, Article 55 permits their aggregation into a final cumulative sentence that may exceed the statutory maximum of twelve years (Court of First Instance of General Jurisdiction of Elbasan, 2023; Korçë District Court, 2017). Although this interpretation reflects the objective of ensuring proportionality in cases involving multiple serious offences, it raises significant concerns regarding its compatibility with the rehabilitative philosophy of juvenile justice. Lengthy custodial sentences risk undermining the educational and reintegrative purposes of juvenile sanctions and may conflict with both domestic legislation and international standards requiring that deprivation of liberty be imposed only as a measure of last resort and for the shortest appropriate period of time (United Nations, 1989, art. 37; United Nations Committee on the Rights of the Child, 2019). The study also highlights that the effectiveness of juvenile sentencing depends not only on legal interpretation but also on institutional capacity. The limited infrastructure and resources available within Albania's specialized juvenile correctional system present practical challenges to the implementation of individualized rehabilitation programmes, particularly in

cases involving long-term imprisonment. Consequently, the practical effectiveness of lengthy custodial sentences in achieving rehabilitation and social reintegration remains questionable. Overall, the findings suggest that the current judicial interpretation of cumulative sentencing should be carefully reconsidered in light of the constitutional principle of the best interests of the child, the rehabilitative objectives of the Juvenile Criminal Justice Code, and Albania's obligations under international human rights law.

Based on the foregoing analysis, several legislative, judicial, and policy recommendations may be advanced.

First, the Albanian legislature should clarify the relationship between Article 51 and Article 55 of the Criminal Code and Article 97 of the Juvenile Criminal Justice Code. Express legislative guidance would eliminate the existing uncertainty concerning the maximum custodial sentence that may be imposed on juvenile offenders and promote greater legal certainty and consistency in judicial practice.

Second, the Supreme Court of Albania should adopt a unifying decision addressing the interpretation of cumulative sentencing in juvenile cases. A harmonized judicial approach would reduce inconsistent case law and ensure the uniform application of the relevant statutory provisions.

Third, courts should adopt an interpretation that gives greater weight to the principle of the best interests of the child and the rehabilitative objectives of juvenile justice. Even in cases involving multiple serious criminal offences, custodial sentences should remain proportionate and consistent with the principle that deprivation of liberty constitutes a measure of last resort (United Nations, 1989; United Nations Committee on the Rights of the Child, 2019).

Fourth, criminal justice policy should further expand the use of non-custodial sanctions, restorative justice programmes, mediation, and other diversionary measures. International standards consistently recognize these mechanisms as more effective in reducing recidivism and promoting the successful reintegration of juvenile offenders than prolonged imprisonment (United Nations, 1985; United Nations, 1990).

Fifth, greater investment is needed in Albania's juvenile correctional infrastructure. Strengthening specialized institutions, increasing professional staffing, and expanding educational, vocational, psychological, and social rehabilitation programmes would improve compliance with both domestic legislation and international child rights standards.

Finally, future judicial and legislative reforms should maintain an appropriate balance between society's legitimate interest in responding to serious criminal conduct and the overriding objective of juvenile justice: the rehabilitation, reintegration, and positive development of children in conflict with the law. Preserving this balance is essential to ensuring that the Albanian juvenile justice system remains consistent with constitutional guarantees, international human rights obligations, and the contemporary principles of child-centred justice.

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