

THESES OF PhD DISSERTATION

The Intersection of Criminal Law and Children's Rights: A Critical Examination of Juvenile Offenders' Treatment

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Doctoral Programme: CECL PhD programme

**Miskolc
2026**

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This doctoral dissertation examines the intersection between criminal law and children's rights, focusing specifically on the treatment of children in conflict with the law and the extent to which juvenile justice systems translate international children's rights standards into effective practice. The central concern of the research is the discrepancy between what juvenile justice legislation formally guarantees and what children actually experience when they come into contact with the criminal justice system. The dissertation places particular emphasis on Central and Eastern Europe (CEE), with Croatia and Hungary serving as the comparative case studies.

The research is based on the idea that children occupy a special position within criminal justice because of their age, developmental vulnerability, evolving capacities, and particular need for protection. Consequently, juvenile justice cannot simply reproduce the logic of adult criminal justice. While children must remain accountable for unlawful behaviour, the response of the State should simultaneously protect their dignity, development, participation, education, rehabilitation, and prospects for social reintegration. International children's rights standards increasingly reflect this understanding by emphasizing rehabilitation and reintegration, proportionality, diversion, participation, and the

use of deprivation of liberty only as a measure of last resort. Nevertheless, the existence of these standards does not necessarily guarantee their effective implementation.

The dissertation therefore asks a fundamental question: to what extent are juvenile justice systems in Central and Eastern Europe genuinely child-centred, and to what extent does a gap remain between formal legal commitments and their practical implementation? The research seeks to answer this question through a combination of doctrinal legal analysis, comparative legal research, statistical analysis, and qualitative interviews. The methodological design allows the dissertation to examine juvenile justice at several interconnected levels: the normative framework, the operation of the system in practice, institutional conditions, and the experiences of children themselves.

1. The conceptual and theoretical framework

The dissertation begins from the observation that the manner in which a society treats children in conflict with the law reflects its broader understanding of childhood, responsibility, punishment, rehabilitation, and social protection. Juvenile justice therefore represents a particularly important area in which criminal law and human rights intersect.

Three theoretical models are used as analytical lenses throughout the research: the welfare model, the justice model, and the restorative model. The dissertation does not treat these models as mutually exclusive categories into which individual countries can be rigidly placed. Instead, they are understood as different normative orientations that may coexist within the same juvenile justice system.

2. International standards for juvenile justice

Chapter Two establishes the international and European normative framework against which the national systems are assessed. The principal reference point is the Convention on the Rights of the Child, supplemented by United Nations instruments, Council of Europe standards, European Union law, and relevant European Court of Human Rights jurisprudence.

Several principles are particularly important to the dissertation. These include the best interests of the child, non-discrimination, the right to life, survival and development, the child's right to participate, proportionality, and the principle that deprivation of liberty should be used only as a measure of last resort and for the shortest appropriate period. The international framework also emphasizes rehabilitation and

social reintegration as fundamental objectives of juvenile justice.

The dissertation examines not only binding legal instruments but also the broader normative ideas reflected in international standards. These standards represent an important shift away from purely punitive approaches towards a conception of juvenile justice that recognizes children as rights-holders whose developmental needs must influence the State's response.

The chapter also addresses the Minimum Age of Criminal Responsibility. The question of when a child should become capable of criminal responsibility is examined not merely as a technical legislative issue, but through psychological, developmental, legal, and social considerations. The dissertation emphasizes that children's developing cognitive and emotional capacities make the application of adult-oriented concepts of criminal responsibility problematic.

The international framework consequently establishes the normative benchmark used throughout the dissertation: juvenile justice should protect children's rights while ensuring proportionate accountability, prioritizing diversion and rehabilitation, minimizing deprivation of liberty, and supporting successful reintegration.

3. Comparative juvenile justice in Central and Eastern Europe

Chapter Three broadens the analysis from the two principal case studies to seven Central and Eastern European jurisdictions: Croatia, Serbia, Slovenia, Hungary, Slovakia, the Czech Republic, and Poland. The purpose is to identify regional patterns while maintaining awareness of national differences.

The comparison considers legislative frameworks, definitions of juvenile offenders, minimum ages of criminal responsibility, sanctions, procedural guarantees, alternative measures, restorative mechanisms, and institutional specialization. It also considers the historical and socio-political context in which contemporary juvenile justice systems developed.

4. Croatia and Hungary as comparative case studies

Chapter Four narrows the research to Croatia and Hungary. The two countries were selected because they share significant historical and legal characteristics, including a common socialist legacy, subsequent post-socialist transformation, EU membership, and common obligations under international and European human rights law. At the same time, they differ in

their legislative structures, institutional arrangements, sanctioning practices, and approaches to juvenile justice.

The purpose of comparing the two countries is therefore not simply to determine which has “better” legislation. Rather, the comparison seeks to understand how similar international standards are interpreted and translated into different national legal and institutional environments.

The quantitative component examines statistical trends concerning juvenile offenders over the period 2014–2023, including reported, accused, and convicted juveniles, types of offences, and sanctions and measures imposed. Statistics are treated not merely as numerical descriptions of juvenile crime, but as indicators of how juvenile justice operates in practice.

5. Qualitative research and the voices of practitioners and juveniles

Chapter Five provides one of the dissertation’s most distinctive contributions. The research uses semi-structured interviews to complement the doctrinal and statistical analysis. Three groups are considered: judicial actors, professionals working in juvenile correctional institutions, and juvenile offenders themselves.

6. Testing the hypotheses

The dissertation is structured around two principal hypotheses. The first, normative hypothesis (H1) states that legal provisions governing juvenile offenders vary significantly among Central and Eastern European countries and that only a subset of countries fully align their legal frameworks with international children's rights standards.

The hypothesis is tested through comparative analysis of the seven CEE jurisdictions, using indicators including the minimum age of criminal responsibility, sanctions, alternative and restorative measures, procedural safeguards, and institutional specialization. The results confirm the hypothesis. Significant differences exist between national legal frameworks, and only a limited number of jurisdictions demonstrate comprehensive alignment with international standards.

However, the research goes beyond identifying differences in legislation. It demonstrates that discrepancies are also produced by deeper structural, cultural, institutional, and political factors. A country may formally comply with international standards while failing to provide the institutional capacity, professional training, or resources necessary to give those standards practical effect.

The second, implementation hypothesis (H2) proposes that juvenile justice in Croatia and Hungary continues to rely substantially on punitive responses while rehabilitation and reintegration programmes remain insufficient, thereby limiting successful reintegration.

This hypothesis is also confirmed. Although both countries have experienced reductions in formal incarceration, the statistical and qualitative evidence demonstrates continued reliance on intermediate measures and institutional responses. Rehabilitation exists as a formal objective but is not consistently translated into practice.

The principal implementation barriers include inadequate staffing, insufficient funding, high staff turnover, fragmented institutional cooperation, limited diversion mechanisms, inadequate vocational opportunities in some settings, insufficient specialized facilities, and, most importantly, the absence of structured and continuous aftercare.

The findings therefore demonstrate that decreasing incarceration is not synonymous with successful rehabilitation. A juvenile justice system can reduce imprisonment while continuing to reproduce punitive forms of control if meaningful community-based alternatives and reintegration services are not sufficiently developed.

7. Systemic barriers and the implementation gap

One of the central arguments of the dissertation is that the gap between law and practice cannot be explained simply by administrative inefficiency. It represents a broader systemic implementation problem.

The research identifies several interconnected barriers. First, legislative reforms may occur faster than changes in institutional culture. Second, professionals may support rehabilitation in principle but lack the time, training, resources, or institutional support necessary to implement it. Third, agencies responsible for justice, social welfare, education, healthcare, employment, and housing may operate without sufficient coordination. Fourth, children can leave institutional settings without the practical support necessary to maintain education, secure housing, find employment, rebuild family relationships, and avoid reoffending.

The thesis also identifies broader social inequalities. The overrepresentation of Roma youth in Croatian and particularly Hungarian institutions is presented as an indication of deeper structural inequalities associated with educational marginalization, social exclusion, and discrimination. Juvenile justice systems cannot solve these inequalities alone, but they

can reproduce them if preventive and inclusive services remain weak.

This leads to one of the dissertation's broader conclusions: juvenile justice should not be understood as an isolated criminal justice mechanism. Its effectiveness depends on the functioning of the wider social environment surrounding the child.

8. Main conclusions

The dissertation ultimately demonstrates that international children's rights standards have substantially influenced juvenile justice legislation in Central and Eastern Europe, but formal harmonization is only the starting point of reform.

The central conclusion is that legal alignment is necessary but insufficient. The incorporation of the CRC and other international standards into national legislation does not automatically produce child-centred juvenile justice. Implementation depends on institutional capacity, professional culture, financial resources, political priorities, inter-agency cooperation, and the availability of effective community-based services.

Croatia and Hungary illustrate this tension particularly clearly. Both have legal frameworks incorporating important international principles, and both demonstrate reductions in formal juvenile incarceration. Nevertheless, significant implementation problems remain. Intermediate and institutional measures continue to play an important role, while rehabilitation and reintegration are weakened by insufficient infrastructure and aftercare.

The qualitative findings further demonstrate that juvenile justice must be evaluated from the perspective of the children who experience it. Institutional placement can have very different effects depending on the quality of education, relationships with staff, opportunities for development, institutional environment, and support available after release.

The dissertation therefore argues for a transition from a system primarily concerned with responding to offending behaviour towards a system concerned with preventing further offending while supporting the child's development and reintegration.

9. Recommendations for reform

The final chapter translates the findings into recommendations for legislators, policymakers, judicial actors, correctional institutions, and community-based services.

The first major recommendation is the expansion of diversion. Diversion should become a genuine default response, particularly for non-violent and first-time offending, rather than remaining an exceptional or inconsistently applied possibility. This requires clear legal protocols, adequate funding, accessible community services, and cooperation among justice institutions, social services, schools, and other relevant actors.

The second major recommendation is the systematic development of restorative justice. Although restorative mechanisms exist within the legal frameworks examined, they remain marginal in practice. The dissertation recommends stronger institutional integration, partnerships with civil society, pilot programmes, and the inclusion of restorative principles in professional judicial training. Croatia could further embed restorative justice within juvenile courts and correctional institutions, while Hungary requires more substantial development of the field.

Third, the dissertation calls for long-term national juvenile justice strategies. These strategies should clearly identify institutional responsibilities, funding priorities, measurable objectives, and mechanisms for diversion, rehabilitation, restorative justice, and reintegration.

Fourth, judicial professionals should receive continuous specialized training and clearer guidance concerning diversion, proportionality, non-custodial measures, child participation, and the principle that deprivation of liberty must remain a measure of last resort. Children should be given meaningful opportunities to understand and participate in proceedings affecting them, according to their age and maturity.

Fifth, the dissertation places particular emphasis on aftercare and continuity of support. Reintegration should begin before release and continue afterwards. Individualized reintegration plans should address education, employment, housing, social welfare, family relationships, and other relevant needs. Correctional institutions should cooperate with community-based services so that the transition from institutional care to community life is not abrupt.

Finally, correctional institutions should strengthen rehabilitation and restorative programmes while ensuring that staff numbers, professional qualifications, and institutional resources are sufficient to implement them. Reform therefore requires not only legislative change but sustained investment in people and institutions.

10. Academic contribution

The dissertation's academic contribution lies principally in its focus on the relatively underexplored juvenile justice context of Central and Eastern Europe. Existing scholarship has frequently concentrated on Western European and Anglo-American systems, while comparatively fewer studies integrate legal, statistical, institutional, and experiential dimensions across post-socialist jurisdictions.

By focusing on Croatia and Hungary while situating them within a seven-country CEE comparison, the dissertation provides a broader regional perspective. Its methodological contribution is particularly significant because it combines doctrinal legal analysis, comparative law, quantitative statistics, and qualitative interviews. The research therefore does not examine legal rules in isolation but investigates how those rules operate within actual institutions.

Conclusion

Overall, the dissertation argues that the central challenge facing juvenile justice in Central and Eastern Europe is not the absence of international standards but the incomplete transformation of those standards into everyday institutional practice.

The research confirms both of its hypotheses. Significant differences remain among CEE countries in the legal treatment of juvenile offenders, and only a limited number demonstrate comprehensive alignment with international children's rights standards. At the same time, Croatia and Hungary continue to face an implementation gap in which rehabilitation and reintegration are recognized in law and policy but constrained in practice by institutional, professional, financial, and structural limitations.

The dissertation consequently rejects the idea that juvenile justice reform can be achieved through legislation alone. Meaningful reform requires a two-level transformation: first, continued alignment of national legal frameworks with international children's rights obligations; and second, the development of the institutional and cultural capacity necessary to implement those obligations.

A genuinely child-centred juvenile justice system should therefore place diversion, rehabilitation, restorative justice, participation, education, and reintegration at the centre of its response. Deprivation of liberty should remain exceptional, and when institutionalization is unavoidable, it should be accompanied by individualized educational and rehabilitative programmes and continuous post-release support.

Ultimately, the thesis presents juvenile justice not simply as a question of how the State should punish children who commit offences, but as a question of how the legal system can respond to offending while preserving the child's dignity, development, rights, and possibility of change. Its principal message is that children in conflict with the law must be treated not merely as offenders, but as children and rights-holders capable of rehabilitation and reintegration. The dissertation therefore calls for a shift from formal compliance towards meaningful implementation, and from punitive institutional responses towards coordinated, child-centred and restorative approaches.

List of Publications Related to the Dissertation's Topic

1. Gašparić, A. (2025). Restorative Justice for Juveniles: A Viable Path to Rehabilitation in Central and Eastern Europe?. *Law of the Future–The Future of Law*, 44.
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13. Hrabar, D., and Gašparić, A. (2018). Obiteljski zakon u svjetlu načela vladavine prava. *Hrvatska pravna revija*, 18(3), 1-21.