



Global Campus  
of Human Rights



**EIUC**

European Inter-University  
Centre for Human Rights  
and Democratisation

UNIVERSITY OF VIENNA

Masters's Degree in Human Rights and Democratisation

2016/2017

## **Children Behind Bars**

*- A Study on Children Deprived of Liberty within the Criminal Justice System in Kosovo*

Author: **Natasha Bursac**

Supervisor: Gerrit Zach

## **Abstract**

Despite an almost unilateral ratification of the Convention on the Rights of the Child by all states around the world, the practice of depriving children of their liberty on arbitrary and illegal grounds continues to be widespread on a global level. Too often, the deprivation of liberty takes place under circumstances and on grounds that are not only a gross violation of the right of the child, but in direct contradiction of the most fundamental values of International Human Rights Law.

This Study has reviewed the situation of children deprived of liberty within the juvenile justice system in Kosovo, in light of relevant international human rights law. As such, the Study includes a monitoring visit to the only juvenile prison in Kosovo, undertaken in collaboration with the Kosovo Rehabilitation Centre for Torture Victims, which is part of the National Preventative Mechanism established in Kosovo. Important findings include the lack of separation between children and adults, which has negative implications in regard to upholding the best interest of the child, as well as an extensive use of disciplinary punishments for reasons which are strictly forbidden in International Law, including the use of solitary confinement.

Promoting a juvenile justice system that is restorative in its nature does not only contribute to upholding the rights of the child, but will have a significantly positive impact on the society as a whole, particularly in terms of reducing juvenile delinquency. The capacity of the governmental authorities needs to be enhanced greatly in order to meet the challenges that currently exist. Most importantly, there needs to be a societal change of attitude towards children in conflict with the law. Kosovo has the youngest population in Europe – therefore, an investment in children should be a main priority, particularly in regard to children deprived of liberty, who are among the most vulnerable groups in society.

## Table of Contents

List of Abbreviations.....	4
1. Introduction.....	1
1.1 Scope and Purpose of the Study .....	4
2.1 Background.....	8
2.1.2 Human Dignity.....	11
2.1.3 The Prohibition on Torture or Other forms of Cruel, Inhuman or Degrading Treatment or Punishment .....	12
2.1.5. Best Interest of the Child.....	16
2.1.6. The Right to Participate.....	16
2.1.7. The Right to Life, Survival and Development .....	17
2.3 International Provisions on Children Deprived of Liberty.....	18
2.4 Children Deprived of Liberty in a Regional Context .....	22
3.1 Limitations of the Study .....	29
4. Case Study on Kosovo .....	31
4.1 Introduction.....	31
4.2 Applicability of International Human Rights Law.....	33
4.3. The Coherence of Domestic Law in light of International Standards .....	34
4.4. Children Deprived of their Liberty within the Juvenile Justice System in Kosovo .....	38
4.4.1. Data Management of the Juvenile Justice System.....	39
4.5. Juvenile Prison in Kosovo .....	40
4.5.1. Separation of categories .....	42
4.5.2. Juveniles in pre-trial detention .....	44
4.5.3. Regime activities .....	45
4.5.5. Review of stay and contact with the outside world .....	49
4.5.6. The System for Complaint Mechanisms.....	50
4.5.7. Children with Mental Disabilities who are in Conflict with the Law .....	51
5. Conclusion of the Study.....	54
Bibliography.....	58
Legal sources .....	61
Annex I.....	67
Annex II. Questionnaire for interviews with children at the Lipjan/Lipljan Correctional Centre .....	74
Annex III. Questionnaire for the staff at the Lipjan/Lipljan Correctional Centre.....	75