

Between Ages

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Youth in Stress – Prerequisites for
European projects in regard to
socio-pedagogical walking

Output 1

Between Ages:
Network for young offenders and NEET



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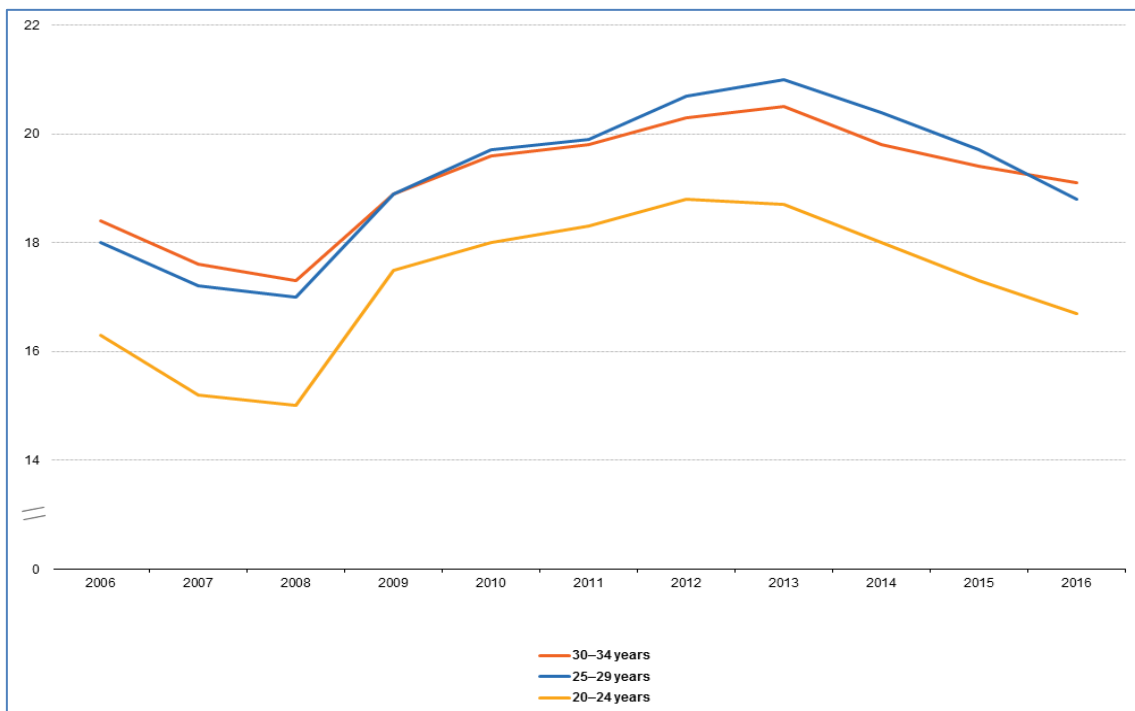
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1 Adolescents in difficult life situations

It is not easy to describe the situation of young people in difficult life situations in Europe comparatively, the number of unemployed young adults as well as criminal offences among young people and young adults have been decreasing since approx. 2007. So, the youth unemployment rate in the European Union of c. 16% in the year 2007 increased to 24% in the year 2013 and has since dropped below the 20% mark. 1. In individual countries (such as France and Belgium), however, it has risen slightly, e.g., in Italy it has risen by more than one-half.

Es ist nicht einfach, die Situation junger Menschen in schwierigen Lebenssituation in Europa vergleichend zu beschreiben. Insgesamt nimmt sowohl die Zahl der jungen Erwachsenen ohne Erwerbstätigkeit, als auch die Kriminalität unter Jugendlichen und jungen Erwachsenen seit etwa 2007 ab. So ist die Jugendarbeitslosenquote in der europäischen Union von ca. 16% im Jahr 2007 auf 24% im Jahr 2013 gestiegen und seither wieder unter die 20%-Marke gefallen¹. In einzelnen Ländern (wie Frankreich oder Belgien) ist sie dagegen leicht und z.B. in Italien um mehr als die Hälfte gestiegen².



Picture 1: The share of young people neither in employment nor in education and training, by age, EU-28, 2006³

The situation in respect to the number of delinquent adolescents is even more confusing: due to the different terminology and censuses, the numbers from the different European countries are seen as difficult to compare, up to today. Especially in reference to youth delinquency, even

¹ <https://de.statista.com/statistik/daten/studie/249093/umfrage/jugendarbeitslosenquote-in-der-eu-und-der-euro-zone/> (updated 18/7/2018)

² <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&pcode=tipslm80&language=de> (updated 18/7/2018)

³ http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Statistics_on_young_people_neither_in_employment_nor_in_education_or_training (updated 18/7/2018)

the European Union points out fundamental differences in the representation: “European countries differ strongly in the configuration of their legal systems, the way they define their legal terms, and how they present their statistics regarding crime and criminal justice.

The absence of uniform definitions, standardized procedures, and a common methodic complicate the comparison of data about criminality between the legal systems.”⁴

A phenomenon found in numerous Western states however is the fact that shortly before the age of 20, young people seem to be especially susceptible to deviant behavior. This particularly applies to men, but it has also been observed among women that most of the suspects are between the ages of 14 to 20. Most of the young people begin with delinquent acts between the ages of 6 and 14 and stop with them between the ages of 20 and 29. The earlier adolescents commit first crimes (“early start”), the greater is the danger of a long-lasting, highly intensive “criminal career”. Particularly at the beginning stage, this means that measures do not intensify delinquent behavior and resistance. Instead, it is important that they highlight and train alternative behavioural patterns.

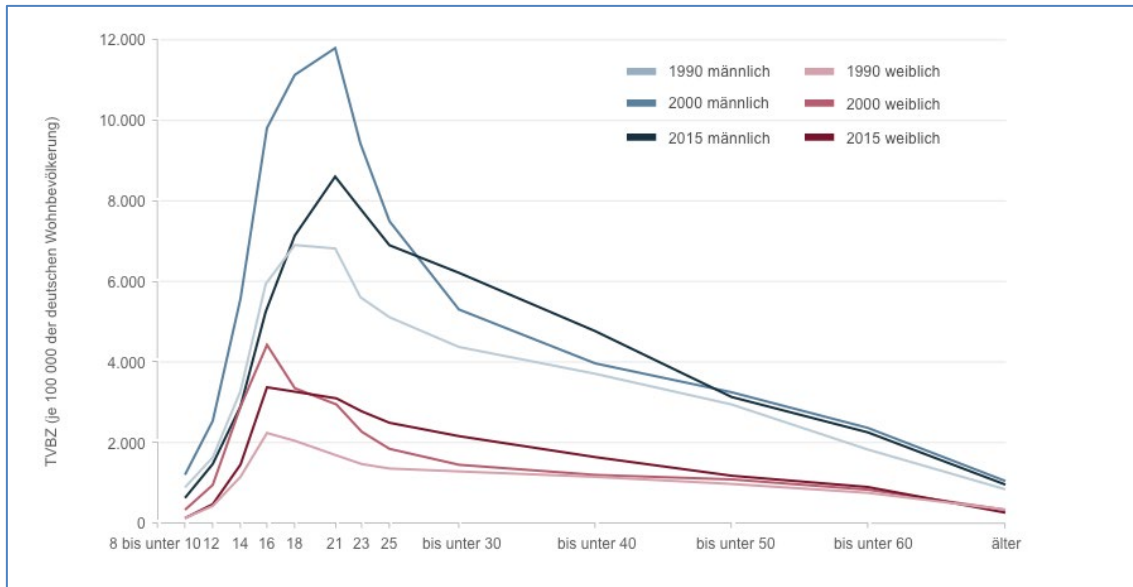
In all four countries, the causes for juvenile delinquency are seen on the personal (family), institutional (school, company, location) as well as on a societal (school system, working conditions) level. The following causes are seen as essential:

1. Personality: dissatisfaction, status thinking, lack of perspective, dwindling sense of right and wrong, wanting attention, testing what is possible and permitted, sense of adventure, a sort of sport or testing one’s courage, condition for becoming a member in a certain group, self-confidence is too low (theft is to prove that one has “guts”).
Family: Serious shortcomings in the upbringing, propensity towards violence in families, lack of social and pedagogical competency of the parents, unemployed parents, associating with younger or older siblings.
2. School: Blatant deficiencies in the educational system, harassment/ exclusion from groups, extreme pressure to achieve.
3. Free time: weaknesses in family and youth-political prevention work, wrong friends, boredom.

Nonetheless, this peak seems to have been losing importance in youth crime in the past years (comp. Figure 1) Altogether, the figures suggest a Europe-wide decrease, which cannot be explained very well so far: “The experts thus appear to confirm that which Farrell et al. (2008) ironically dubbed ‘criminology’s dirty little secret’: we do not really know why (juvenile) crime has decreased.”⁵

⁴ <http://ec.europa.eu/eurostat/web/crime/comparisons> (updated 18/7/2018)

⁵ Berghuis, Bert/Waard, Jaap De (2017): Declining juvenile crime – explanations for the international downturn; Originally published in Dutch under the title “Verdampende jeugdcriminaliteit: Verklaringen van de internationale daling” Justitiële Verkenningen, vol. 43, no. 1, March 2017



Picture 2: Criminality by age in Germany – suspects excluding state security and traffic delicts⁶

The decrease in youth unemployment and youth crime should however not hide the fact that the transition from adolescence to adulthood presents a great risk for many young people, especially in critical life contexts such as low family income or already unemployed parents. If, on the one hand, young adults cannot manage this transition by their own efforts, this has long-lasting effects on their own well-being and income. On the other hand, the repeated flare-up of conflicts, in which young people are involved, show that situations arise which are a burden to the European society as well. Causes for remaining in a long-term unemployment situation, education and training (NEET), is an interaction of individual and structural or rather systemic factors.⁷ NEETs are youths who frequently have grown up in homes with insecure, difficult employment biographies (often up to three generations). Beyond that, ethnic minorities are affected by an above average NEET risk.

Bynner und Parsons⁸ show that an urban environment or rather public housing with signs of poverty and families with low cultural capital (parents don not read to the children) are subject to the usual NEET profiles. Adolescents who never had a NEET status often have parents with secondary education degrees who hold leading positions, own a house or an apartment, and hardly show any unemployment.

In this regard, it is important to refer to learning theories (Sutherland, 1947), who assume young people learn to commit delinquent acts, just as any human behavior has been learned or acquired. A negative attitude towards the law and norms by others (parents, friends, ...), and not committing criminal acts as such, is important. It is about growing up in an atmosphere where abiding to the law is not a priority. Important in learning and unlearning behavior is an adequate

⁶ Wolfgang Heinz, bpb - Konstanzer Inventar Kriminalitätsentwicklung, <http://www.bpb.de/politik/innenpolitik/gangsterlaeufer/203562/zahlen-und-fakten?p=all>; Lizenz: cc by-nd/3.0/de, updated 19/7/2018

⁷ Europäische Kommission (2011): Communication from the commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Youth Opportunities Initiative, Brussels, page 53

⁸ Bynner, John & Parsons, Sam. (2002). Social Exclusion and the Transition from School to Work: The Case of Young People Not in Education, Employment, or Training (NEET). *Journal of Vocational Behavior*. 60. 289-309. 10.1006/jvbe.2001.1868., page 298

reaction and sanctioning of behavior that is interpreted as good or bad. Interaction with delinquent peers through certain mechanisms can lead to committing offenses, through a transfer of delinquent definitions, social confirmation, imitation and deviant subcultures.

After Sutherland and his learning theory, research in criminology started looking at the social control theory of Travis Hirschi (1969). This theory assumes everyone will commit criminal acts unless strong bonds with society will refrain us. These bonds can be affective (attachment), commitment (f.i. to school), involvement in conventional activities and beliefs in moral or societal values. Strong bonds with peers lead to abiding to the norms of the peer group, which is an effective buffer to committing criminal acts. Strong bonds with society can withhold individuals from delinquent behavior; weak bonds with society however usually are related to a certain degree of structural discrimination, referring a.o. to social class but also to (residential) environment of upbringing.

All in all, calculations by Eurofond for the European Union show that the risk for young adults to remain without a workplace, education and training (Not in Education, Employment or Training; NEET), Europe-wide depends strongly on regional and, most of all, on domestic conditions.⁹

- Health restrictions raise the NEET risk by 40% in comparison to adolescents without health restrictions.
- A low educational level raises the NEET, so the risk for adolescents increases twofold in comparison to adolescents who have completed vocational training or school education.
- Adolescents who live in far-away areas have a 1.5 fold higher NEET risk than adolescents living in medium-sized cities.
- Adolescents residing in households with a low income have an increased risk.
- Adolescents, whose parents are unemployed, have a 17% higher risk in comparison to adolescents, whose parents have not experienced unemployment.
- Adolescents, whose parents show a low educational level, have a 1.5 fold higher risk compared to adolescents, whose parents have completed their education/ training. In comparison to adolescents with parents having an academic education, the risk increases two-fold.
- Adolescents with divorced parents have a NEET risk increase by 30%.
- A migration background increases the NEET risk by 70%.

In its annual study regarding social justice, the Bertelsmann Foundation terms children and adolescents the biggest losers of the European economic and debt crisis: In the EU, approx. 26 million children and adolescents are endangered by poverty and social marginalisation. That is 27.9% of all those below 18 years of age. Low future perspectives also apply to the 5.4 million young people who neither find an occupation nor an education/training. Especially in Europe, a social justice divide runs from North to South as well as between young and old. The most negative development however is found in the southern European countries: in Spain, the proportion of 20-24 year-olds who have neither work nor education climbed from 16.6% to 24.8 %, in Italy even from 21.6% to 32%.¹⁰

⁹ [http://www.sozialministerium.at/cms/site/ attachments/0/0/9/CH2247/CMS1318326022365/bmask_neet-studie.pdf](http://www.sozialministerium.at/cms/site/attachments/0/0/9/CH2247/CMS1318326022365/bmask_neet-studie.pdf), updated 19/7/2018

¹⁰ <https://www.bertelsmann-stiftung.de/de/presse/pressemitteilungen/pressemitteilung/pid/soziale-kluft-in-der-eu-kinder-und-jugendliche-sind-verlierer-der-krise/> (updated 15/6/2016)

In the European Union, approx. 30% of the adolescents and young adults aged 15 to 24 are also estimated as being endangered by poverty. All in all, the proportion has decreased slightly Europe-wide, whereby the proportion of Italy lies markedly above the average, in France somewhat, and in Belgium and Germany markedly below the average. (Comp. Table 1)

GEO/TIME	2008	2013	2014	2015	2016
Europäische Union (derzeitige Zusammensetzung)	:	31,6	31,4	31,0	30,5
Belgien	23,4	24,2	27,0	26,1	24,8
Deutschland	24,8	24,4	23,3	23,0	23,2
Frankreich	26,4	27,4	25,6	24,0	28,0
Italien	32,0	36,5	36,6	36,9	36,3

Table 1: The population of 15 - 24 year-olds endangered by poverty and social marginalisation in per cent. ¹¹

Long-term unemployment for adolescents in the European Union lies at 4.5%, similar values are reached by Belgium (4.8%) and France (5.5%), in Germany, the rate of 1.5% lies markedly below, and in Italy with 14.2% markedly above.¹² These few figures may give an impression of how multi-levelled and differentiated the situation of young adults in the European Union is. The initiatives linked in the “Between Ages: Network for young offenders and NEET” are linked to this life situation and a double transition: the transition from youth to adulthood, on the one hand, and the transition from the possibly difficult living conditions to an active and creative life, on the other hand. This transition becomes especially obvious in the work with delinquent adolescents who were sentenced to detention or rather a prison sentence, or who are facing such a sentence. The three projects linked in this European cooperation, respectively, have begun in their work with delinquent young people, as hereby the alternative to measures mostly connected to severe sanctions becomes especially obvious. Therefore, in this, and the following work reports about the projects, the emphasis is frequently placed on the topic of the work with delinquency. However, this is to be understood only exemplarily and is opened to other disadvantaged groups, again and again, in the course of the project.

¹¹ http://ec.europa.eu/eurostat/data/database?p_p_id=NavTreeportletprod_WAR_NavTreeportletprod_INSTANCE_nPqeVbPXRmWQ&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_pos=1&p_p_col_count=2#, (updated 19/7/2018)

¹² http://ec.europa.eu/eurostat/data/database?p_p_id=NavTreeportletprod_WAR_NavTreeportletprod_INSTANCE_nPqeVbPXRmWQ&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_pos=1&p_p_col_count=2#, (updated 19/7/2018)

1.1 Belgium

In Belgium, no reliable data existed up to a few years ago. In theory ‘acts categorized as an offense’ (called MOF) and ‘youth in an alarming situation’ (called VOS) are reported in various ways, in practice the only decent figures available are these about the inflow in the juvenile courts. Hence these figures are not complete, since not all criminal acts are discovered or reported. Almost 60,000 adolescents were recorded as committers of crimes in 2015. 44% entailed crimes against property (theft, demolition), 20% of the crimes were against persons, mostly bodily harm, and 11% were drug delicts.

State in 2015	n	%
Adolescents in Belgium	2277158	100
Crimes (MOF)	57.160	2,5
Alarming situation(VOS)	75.636	3,3
Total (MOF+VOS)	132.796	5,8

Table 2: Crimes by adolescents in Belgium.¹³

Evaluating measures imposed to minors who committed acts categorized as an offence seems to be a very difficult thing. Furthermore, too often the subjective perspective – the experience of the minors involved – is ignored. This perspective needs to be as important to take into account as ‘objective’ outcomes.

In evaluating the effects one needs not only to focus on individual measures, it is equally important to see these measures in a long-term perspective, and to take into account the long-term impact of measures. Research shows coming into contact with youth protection services in the long term particularly generates negative effects and outcomes (the so-called ‘iatrogenic effect’). This effect is not only about recidivism, effects reported are on various levels of life domains (school, work, family). Stigmatizing and labelling can be possible causes of this effect.

1.2 France

In France, child and youth crime under 25 years of age is recorded, assuming a proportion of 5.2% adolescents who commit crimes. Youth delinquency is no marginal problem. The proportion of male youths involved in court proceedings keeps growing. The crimes committed by youths mostly concern crimes against property (theft, dealings with stolen goods, 55% of all property delicts, but especially the use, ownership of, and dealing with drugs (64% of all drug delicts).

2015	Total population	Juveniles	Change 2015/2014	% (juveniles)
Court procedures	4 260 836		-2.9	
<i>Unsolved crimes</i>	2 461 026		-2.4	

¹³ <http://www.om-mp.be/stat/jeu/n/>. (updated 19/7/2018)

Brought to court -	1 799 810	165 138		
<i>Poorly-defined offences, insufficient charges</i>	535 191	35 701	-9	
Indictable offences	1 264 619	129 437	-4.7	100
Cases dropped	153 667	8 814	1.3	6.8
Alternative procedures to indictment	463 960	71 028	-8.7	54.9
Of which, warnings		43 029		
Settlements	67 134	2 221	1.1	1.7
Prosecution	579 959	47 374	0.8	36.6
Before a Youth Judge		45 698	1	
Before a magistrate		1 337	-2.6	
Immediate referral to a Youth Judge		339	-12.4	

Table 3: Crimes by adolescents in France. ¹⁴

Important results of the statistic in France are:

- The most frequently-committed offences by juveniles, in both absolute terms and as a percentage, are crimes against property (theft, handling stolen property, destruction and degradation) for 23,510
- The next-most frequently-committed crime is assault and battery (6,771 offences, or 11% of all crimes of this type)
- Offences involving drugs, very common for youths from 10 to 24 years of age (64% of this type), only involve 10.6% of juveniles
- 20% of rape is carried out by juveniles, often very young (14 years old).

In 2015, out of 633,875 prosecutions, 46,263 concerned juveniles (7%) of which 504 were for crimes, 45,113 for minor other offences and 646 for 5th degree incidents.

According to French Civil Law, danger arises when “the health, safety, morality or educational conditions of a youth are seriously compromised”. The causes of endangerment can be explored by identifying the conditions necessary to a smooth development of the process from conception to adulthood. Here is what the March 2016 Law states : “*childhood protection aims to guarantee children’s fundamental needs being taken into account, to support their physical, emotional, intellectual and social development and to preserve their health, safety, morality and education, in keeping with their rights.*” The actual impact of causes of endangerment varies according to the age and maturity of the youth concerned; this impact may, moreover, be of a quite different nature: physical, psychological, social and educational. These two phenomena (on the one hand, children or teenagers in situations of risk for their development; on the other, the antisocial behaviour they adopt) are different for several reasons:

¹⁴ French Ministry of Justice (2017)

- endangerment is not provoked by the youth, while delinquency is (with varying degrees of responsibility)
- measures applied to youths are not of the same kind (protection in the first case, prevention and repression in the second)
- each phenomenon can have specific causes that do not appear in the other case

They are, however, often linked, so much so that, before identifying their causes separately, it is important to look at the factors that are common to both. Moreover, it is worth noting that, by allocating final authority in the domains of both sentencing and social action to the same magistrate in the person of the Youth Judge, the French legislator wanted to allow these two fields of responsibility to be considered in both a general and complementary way towards children and teenagers.

1.3 Germany

In Germany, criminally relevant offenses by young people from the age of 14 to below 21 years of age are generally termed juvenile criminality. The current definition is based on the age framework of juvenile law, which can be applied to adolescents from the age of 14 to below 18 as well as – under certain conditions - also to adolescents from 18 to below 21 years of age. Juvenile criminality is mostly a male phenomenon: according to the PKS, in 2006, 76% of the suspects from the age of 14 to below 21 years of age were young males. Due to the crimes being less serious as well as the favourable social prognosis for women, the proportion of males in the criminal prosecution process continues to increase. According to the criminal statistics of the year 2006, among the prisoners, the proportion of males came to 95%.¹⁵ Altogether, more than twice as many adolescents/young adults per 100,000 inhabitants are categorised as suspects, whereby the age group from 18 to below 21 is the largest with a proportion of 6%. Hereby, traffic delicts and political criminality were not taken in consideration.¹⁶

¹⁵ https://www.destatis.de/DE/Publikationen/STATmagazin/Rechtspflege/2008_1/PDF2008_1.pdf?__blob=publicationFile (updated 16/07/2018)

¹⁶ <https://www.bpb.de/politik/innenpolitik/gangsterlaeufer/203562/zahlen-und-fakten?p=all> (updated 16/7/2018)

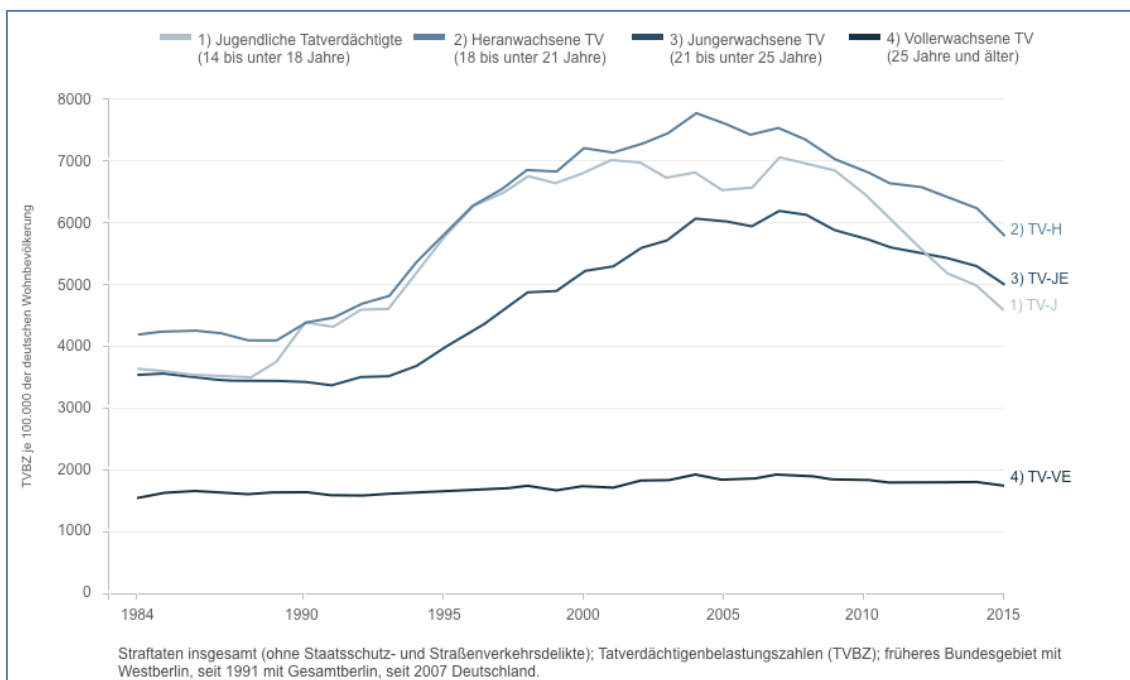


Figure 3: Proportion of the suspects per age group Germany in the course of time ¹⁷

The registered criminality by young people differs significantly in its structure from that of adult criminality. Young people become most prominent due to theft and bodily harm delicts. In contrast, the severe forms of property criminality and severe forms of violence criminality are as a rule committed by adults. Overall, it can be said that the seriousness of the committed crimes increases from the adolescent age group to that of the adults. ¹⁸

Evaluations point toward the following particularities during resocialization¹⁹:

- Freedom -depriving sanctions such as imprisonment and youth custody without parole show a higher reoffending risk than those with milder sanctions such as a monetary penalty or sanctions imposed by a juvenile judge.
- The highest reoffending rate of 69% is shown for youth custody without parole, narrowly followed by youth arrest with 65%, the lowest is for monetary penalty with 29%.
- The higher reoffending rate in youth custody compared to a prison term corresponds to the generally higher reoffending rate of younger age groups.
- In those sentenced to parole, the reoffending rates are markedly lower compared to prison terms and youth custody.
- Traffic offenders (except driving without a driving license) and those convicted of homicide show the lowest reoffending rates with 20%, whereas offenders of robbery delicts and severe forms of theft become reoffenders at more than 50%.
- However, the increase in reoffenders following traffic delicts without the influence of alcohol (6%) and homicide (7%) is relatively low.

¹⁷ <https://www.bpb.de/politik/innenpolitik/gangsterlaeufer/203562/zahlen-und-fakten?p=all> (updated 16/7/2018)

¹⁸ https://www.destatis.de/DE/Publikationen/STATmagazin/Rechtspflege/2008_1/PDF2008_1.pdf?__blob=publicationFile (updated 19/7/2018)

¹⁹ Bundesministerium der Justiz (2014): Legalbewährung nach strafrechtlichen Sanktionen Eine bundesweite Rückfalluntersuchung, page 8; http://www.bmjv.de/SharedDocs/Publikationen/DE/Legalbewaehrung_strafrechtliche_Sanktionen_Kurzbrochuere.pdf?__blob=publicationFile&v=8, (updated 16/7/2018)

With a participatory and international approach, existing educational and employment market-relevant offers in Germany are to be more strongly directed toward the needs of this target group. Most of all prevention measures, i.e., early counselling and flexible education/training, useful work, an early warning system for the avoidance of dropping out from school, and a more successful transition from school to vocational school/ vocational school to working world, and business-political measures for reintegration are to help relieve crimes. It could also be verified that fewer offenders become reoffenders due to ambulatory assistance.²⁰

1.4 Italy

In Italy, the country with the highest poverty rate amongst adolescents in the project group, the low social mobility among the 15- to- 29-year-olds is referred to, most of all: There has been an interesting lack of social mobility in Italian population: students from the poorest families are unable to make it to graduation. Only 7.5% of the graduates have parents without a high-school degree compared with 58.6% of the graduates whose parents graduated. People who left middle-school can mostly be counted to the group of NEETs (83.8%). This is caused by family problems (25.2%), health problems and / or disabilities (16.5%) and due to discouragement (15.6%). There is a negative correlation between the lack of nursery schools and the female NEETs rate: a lower number of nursery schools correspond to a higher value in NEETs.²¹ Also important are the difficulties of including foreigners in the educational system: more than 50% of the foreigners, who leave school early, do not reach the minimum literacy levels. In general, the risk of being in the NEET status is extremely high for young foreign people: while the rate for Italian natives is about 20%, it is 30% for foreigners. In Italy, too, property crimes, especially theft and robbery, are the most frequent crimes by young people.

Criminality by 14 - 18 year-olds	Number	Proportion
Property crime	24351	45,3 %
Of this:		
Theft	12978	
Robbery	4941	
Against the Person	13027	24,2 %
Against the State	2785	5,2 %
Drug Dealing	5035	9,4 %
All cases	53.762.	
Adolescents 15 – 19 years of age ²²	2.863.938	

Tab. 4: Kinds of punishable acts of adolescence in Italy²³

The major part of children in conflict with the law are entrusted to Juvenile Social Service Offices (indicatively n.20.000 every year – 20.213 in 2013) and submitted to alternative measures. De-

²⁰ Bundesministerium der Justitz (2014): Legalbewährung nach strafrechtlichen Sanktionen Eine bundesweite Rückfalluntersuchung, page 7; http://www.bmjv.de/SharedDocs/Publikationen/DE/Legalbewaehrung_strafrechtliche_Sanktionen_Kurzbrochuere.pdf?__blob=publicationFile&v=8 , (updated 16/7/2018)

²¹ ISFOL; Italia lavoro; ISTAT issues

²² <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

²³ Offices of Youth Social Work of Venice, year 2015

tention, indeed, is seen as last resort and give space to alternative pathways and replies maintaining a criminal character. During last years, the use of placement in community increased a lot both as custody measure and other judicial provisions due to its ability to match educative and control needs. Children entrusted to Juvenile Justice services are mainly Italian (82%) and males (89%). As for the age the average one is between 16 and 17 years (52%).²⁴

In Italy, conditions were imposed upon 185 adolescents, 289 were sentenced to house arrest, 498 to stationary institutions, and 1.068 to juvenile prison. Of the latter, 48% were Italian natives and 52% had a migration background. In recent years there has been an increase in community placements because they allow to unite the educational aspects with those of control. Thus, adolescents and young adults have an especially high share of crimes of the populations in all four countries investigated. In the majority of all cases this concerns property delicts such as theft or demolition and drug delicts.

2 Central aspects of federal classification systems

In all four countries, legal age is reached with the completion of age 18. With this, the person is **legally competent**. A person below the age of 18 is underage until he/she reaches legal age. Underage adolescents are under special legal protection and have limited rights and responsibilities. In all four countries, the parents have custody of their underage children. This can be transferred to other people. In these cases, the people having custody have the duty to see to it that the underage children they are entrusted with do not suffer any harm, do not harm others, and are not endangered by others. What's more, the people in charge should know where the entrusted children, adolescents and youths are at any given time and what they are up to. They must also recognize unforeseen dangers and protect the children from possible harm. When underage people participate in an initiative (e.g. an excursion), the parents or those who carry the parental responsibility, must give their consent. There are documents for this to be signed by the parents. Likewise, the rights and responsibilities for all involved are set down in a contract and signed. In all four countries, children, adolescents and youths are required to attend school from and up to a certain age. Compulsory school attendance begins at age 6. So called vocational school attendance begins after the completion of the entire compulsory school attendance is absolved and ends at the age of 18.

2.1 Fundamentals of juvenile law/ juvenile assistance law

Juvenile criminal law in Belgium is in essence juvenile protection law: juvenile protection is regulated by law of April 8, 1965.²⁵ Minors are 'non-punishable' according to Belgian law, theoretically it is a 'model of protection'. A minor cannot commit a crime, but can commit 'acts categorized as a crime'.²⁶ Because minors are not punishable or prosecutable, a juvenile judge cannot impose a punishment, but only impose measures. With the emergence of social work, judicial

²⁴ https://www.oijj.org/sites/default/files/joda_nationalreport_it.pdf

²⁵ http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=nl&la=N&cn=1965040803&table_name=wet&&caller=list&N&fromtab=wet

²⁶ <https://www.kennisplein.be/Pages/Jeugdgedelinquentie.aspx>

activity against minors evolves from an individual repressive to a social preventive perspective, aiming at minimalizing and avoiding delinquent behavior and judicial intervention. Social protection complements judicial protection with the establishment of a committee for youth protection next to the already existing juvenile courts. The role of juvenile courts becomes more comprehensive: juvenile judges are authorized in civil as well as in criminal cases. By adding civil competences to juvenile judges, their role became more pedagogical.

In 2006, juvenile protection was reformed into restorative juvenile criminal law. Its name: the law regarding protection of minors, taking charge of minors who committed 'acts categorized as an offence' (in Dutch 'een als Misdrijf Omschreven Feit', abbreviated as MOF) and the restoration of damage caused by the offence. Since the latest state reform (2014), the Communities (Flemish and Wallonian) are responsible for a large part of the juvenile criminal law.²⁷ In France, there is a family and social code and an administrative order for young offenders. Underage children between the ages of 13 to 16 only carry reduced responsibility. Underage adolescents between the ages of 16 to 18 have the right to freedom. This right, however, may be repealed due to certain crimes and also due to a certain number of crimes. Important institutions are: the department of human resources, the district councilor for human resources, the department of social welfare, so called observation posts for endangered adolescents, the juvenile social service, and the juvenile police. There are youth houses for pedagogical work. In all laws as well as in the work with adolescents the pedagogical mission is to assist young people in their rehabilitation. The juvenile social service has the special task of protecting children and adolescents and also to accompany parents in their pedagogical responsibility.

In Germany, the terms child, adolescent, youth are determined by the children and youth assistance law art. 7 par.2 juvenile court law (JGG). Children below the age of 14 and non-accountable. Someone who is 14 but not yet 18 is considered an adolescent. An "adolescent" in the criminal sense is a person between 18 and 21 years of age (art.1 par.2 JGG), whereas the juvenile assistance law does not know this terminology and designates a person who is 18 but not yet 27 years of age as a "young adult".²⁸ Hereby, the juvenile criminal law can find application only if in type, circumstances, and reason, the young adult's crime had been a case of "youthful misconduct" or if the young adult's personality and maturity development during the time of the crime equaled that of an adolescent.²⁹ The juvenile court law is called pedagogical criminal law in Germany. The conditions and directives imposed by a judge, which are implemented by social pedagogues are to assist the adolescent and young adult in leading a life without crime.

In Italy, underage youths are between 14 and 18 years of age. The Italian juvenile criminal system is based on the concept that it must be estimated whether the underage youth is guilty of a crime and are criminally liable. Those below the age of 14, they can never be held criminally liable. The aim of the juvenile criminal law is to orientate itself on the needs of the personality. Young people over 18 and up to 25 years of age, who committed a crime when they were below age 18, are treated as underage individuals by the criminal code. From the age of 18, the criminal code for adults is to be applied. The major goal of the juvenile assistance law is the protection

²⁷ http://justitie.belgium.be/nl/themas_en_dossiers/kinderen_en_jongeren/jeugdcriminaliteit/principe

²⁸ Art.7 par. 1 no. 3 SGB VIII

²⁹ See arts. 105 par. 1, 109 par. 2 Jugendgerichtsgesetz

of the child.³⁰ Young adults from 15 to 29 years of age are offered assistance by the youth welfare law to, e.g., for attending school regularly or also for finding a job. The juvenile protection regulation applies to juveniles up to the age of 18.

In all four countries, there is a child and youth assistance law and a juvenile criminal law. Children below 14 years of age are criminally not liable. The focus of all the laws is concentrated on the pedagogical and educational mission as well as on social assistance. There is a difference to dealing with those of legal age. The fundamental task of children and adolescent assistance in all countries is to promote young people in their individual and social development and to contribute to avoiding and reducing discrimination, counseling and supporting parents and other legal guardians in the upbringing of their offspring, and protecting children and adolescents from danger and adding to positive life situations for young people and their families as well as preserving and creating a child- and family-friendly environment. The juvenile criminal procedure in all four countries aims at minimal criminal intervention. Interventions on behalf of the adolescents are supposed to raise youth employment. The goal is to reduce the time expenditure before entering the youth work force, and to improve the relevance between their abilities and the professional needs of companies. In a danger situation, or harm to the physical and psychological well-being of the child or adolescent, social services must become active.

These social services must definitely work together with the family or the adults of the child or rather adolescent, assisting them in order to reduce problems. In all four countries, there are ministries for human services, youth protective services, social services departments, and also special juvenile case workers at the police.

2.2 Sanctions and measures

In Belgium, on the one hand, the child protective services (“jeugdparet”) can decide if it hands over a case to the juvenile court and closes the file. If the crimes committed are not too serious, and the file is closed, the authorities can send a sort of “admonition (warning)” to the underage adolescents and their parents. On the other hand, the child protective services can also suggest mediation between the adolescents, their parents, and the victim. The aim is to sensitise the adolescents for the material and social consequences of their action. If the child protective services decide to bring a case before the juvenile court, it can impose temporary custody and protective and/or educational measures. This temporary phase can last a maximum of 6 months. If the adolescent is at least 12 years old, he/she must be brought before a juvenile judge and be assisted by a lawyer. A juvenile judge can decide what is to happen: acquit the adolescent; reprimand the adolescent in order to maintain previously imposed measures, or impose new measures. A juvenile judge must substantiate the decision based upon several factors: the personality of the adolescent, the age/ maturity, the familiar and social context, school attendance, personal safety, seriousness of the committed acts, circumstances under which the acts were committed, damages and consequences to the victim, and whether the adolescent presents a threat to society or not.

³⁰ Art. 330, 332 und 403 CC, Art. 111 Konstitution, Gesetz 84/1983, Gesetz 269/1998

Since the last federal reform (2014), the communities (Flemish and Wallonian) have been responsible for a large share of the juvenile criminal law. They are responsible for the determination of the kind of measures taken in respect to adolescents who have committed a crime. The juvenile judge must take into account the subsidiary principle, i.e., he initially assigns measures with the lowest consequences to the young person's freedom being limited. The law prohibits various measures, e.g.: ambulatory measures are preferred, learning projects, group rehabilitation meetings, mediation with an impartial mediator and the perpetrator as well as the victim, to find a solution for making amends for the damage. For children below the age of 12 at the time of the crime, the juvenile judge can assign only three measures: reprimand, social follow-up, and intense pedagogical assistance. A juvenile judge can assign other measures, for example: supervision of an adolescent by a social service, an outdoor-pedagogical measure in nature of maximally 150 hours (from age 16), house detention, ambulatory therapeutic treatment, or being placed with a foster family or in social institution.

In France, there are several juvenile court measures, for example: the reprimand, a sort of training in an open probation centre under the responsibility of the respective educational department or service, stationary placement in a specialized home, in a juvenile prison or a closed juvenile prison (for adolescent reoffenders). Sanctions for adolescents above 13 years of age, are, e.g., making amends before the judge's decision, probation, court surveillance, probation and placement under legal protection. The last few measures can be supplemented by various other obligations (treatment, education, or training). A measure replacing confinement for those below the age of 16, e.g., is community work. Prisons have a juvenile section and there are also special youth prisons. The protection of the children and adolescents is in the foreground and therefore also the promotion of health. The French ministry for education has the responsibility for the promotion of health.

In the cities, there are departments for child welfare. These are responsible for the following areas: providing financial, pedagogical, and psychological assistance to underage children, their family members, independent underage adolescents, and young adults with social problems, who are endangered. They organize collective programmes for the prevention of discrimination and the support of underage adolescents and their families; they promote social integration and are responsible for emergency plans for the protection of underage adolescents, who were entrusted to the social work department of social welfare. Likewise, the survey the progress in cooperation with the family as legal guardian and implement measures in respect to the abuse of underage adolescents.

The aim of the juvenile law in Germany is to counteract new crimes by an adolescent or young adult according to art. 2 par. 1 juvenile court law (JGG). The aim of social law code eight (art. 1 par. 3 SGB VIII) is to promote young people in their individual and social development and to contribute to avoiding and reducing discrimination, counseling and supporting parents and other legal guardians in regard to the upbringing of their offspring, and protecting children's and adolescents' wellbeing from danger and contributing to maintaining and creating positive living conditions for young people and their families in a child-and family-friendly environment. These goals should be reached with individual benefits and tasks by juvenile assistance. They are rendered by public and private providers (e.g., child protective services) in cooperation with the juvenile courts. In the juvenile court law, according to educational regulations of arts. 9-12, there

are prerequisites; especially significant are the directives according to art. 10 par. 1 sentence 1 JGG: Directives are those referring to the location, living in a family or a home, accepting an training or workplace, performing work - pilgrimage project, putting oneself under the care and supervision of a certain person (caretaker), participating in a social training course –pilgrimage project, reaching a perpetrator-victim settlement, refraining from frequenting certain persons or visiting taverns and places of public entertainment, and participating in traffic education. There is also assistance for education according to art. 12 JGG, i.e., the adolescent is provided with a parenting counselor.

Among the means of correction are: reprimand (warning), second sanction, making amends in reference to damages art. 15 par. 1 no. 2 JGG. The juvenile arrest is a short-term involuntary commitment of liability-compensating and pedagogical character. Finally, there is still youth custody with the deprivation of freedom, which is imposed due to harmful tendencies and the severity of the liability. The minimal amount of time for the deprivation of freedom is six months and the maximum time is five years, except for felonies, where it is ten years for adolescents. Adolescents have the legal entitlement to benefits³¹ according to the social law code eight, e.g.: social group work, parental counselor/ caretaker, socio-pedagogical family assistance, being raised in a day group, full-time care, upbringing in a home, other forms of habitation, intense socio-pedagogical individual care, integration assistance for emotionally impaired children and adolescents. The juvenile judge can assign different educational measures. However, if the public juvenile assistance assumes the costs, this must happen via juvenile assistance.

In Italy, the ultimo ratio also applies. The deprivation of freedom is the final instrument. Before that, proper measures should be exhausted. In the last years, new measures have been considered to teach underage adolescents how to deal with responsibility. Only in extreme cases, when the endangerment of the person him-/herself or of society is at stake, a prison sentence is carried out. Yet, the juvenile judge can assign a stay in one of the respective social institutions (home) for adolescents, outside of the family, to further resocialization and social reintegration. There are also ambulatory measures for endangered children and adolescents: attending afternoon centres, assisting families, and a family education system. Furthermore, assistance initiatives for young people are encouraged, e.g., occupation and useful work. In Italy, a particular focus is placed on young NEETs in regard to special measures and social services to ensure that all youths below 25 years of age receive a qualitatively valuable occupation, continued education, education, and training programme within a timeframe of four months following unemployment and leaving formal education. For a successful realisation,

there is a network called “Good School“ which cooperates with 1,000 secondary schools and 75 universities to improve employment and placement and to promote practical training to lastly create a beneficial relationship to local companies.

In all four countries, the ultimo ratio, i.e., the deprivation of freedom is the final means for juvenile perpetrators. All the measures, which are assigned in the framework of juvenile criminal law, have the aim of assisting young people and giving them a second chance for a successful resocialization. Therefore, all the measures emphasise education and training. Thereby, especially scholastic and vocational education/training is in the foreground to open up a perspective

³¹ Assistance to Education (Hilfen zur Erziehung §§ 27 ff.)

and thus to counteract crimes. Measures concerning child and youth protection also represent an important pillar.

2.3 Participating professions/ network partners

In Belgium, there has been a new directive in respect to integral youth welfare since 2013, which promotes a strong cooperation among all the organisations in youth welfare. It aims at providing assistance to the adolescents whenever necessary. This directive is founded upon six building blocks:

- Own strength: social workers work with the strengths of the adolescents and their context.
- In due time: whoever needs help finds his way to adequate assistance, easily. In case of intensive help, the gateway leads to specialised help.
- Continuity: a provisionary network referring to suitable assistance and avoiding endangerment while help is provided.
- Management of risky situations: social workers, who have misgivings in respect to the integrity of an adolescent, can speak to an organisation commissioned to take action.
- Help for young people who find themselves in a crisis: whoever needs help urgently is referred to the crisis team.
- Participation: clients speak about the help they are receiving and the process.

The participating institutions are: youth welfare (Agentschap Jongerenwelzijn), centres for student counselling (Centra voor Leerlingenbegeleiding), centres for psychological health (Centra voor Geestelijke Gezondheidszorg), child and family (Kind & Gezin), a Flemish agency for handicapped people (Vlaams Agentschap voor Personen met een Handicap). It is important to make a difference between help/ organisations which are directly available and those which are in the background, as in the latter, assistance must be applied for in a general procedure. An adolescent who is in need and unable to find a solution must have the chance to find an easy approach to help.

In France, similarly as also in the other countries, there are superordinate authorities such as the ministries for social work and education and justice devoted to the task of upbringing, education, and crime prevention. Also, local authorities, e.g. social assistance offices, institutions for endangered youths, the juvenile social service or also the juvenile police are important network partners. The cooperation between the youth court and institutions for the rehabilitation of juvenile offenders is well organized in so called rules of operation. The programmes are financed through public institutes, donations, sponsors, and membership dues.

In Germany, the following professions or rather network partners are involved in juvenile criminal procedures and in the work with young people:

- The public prosecutor's office is an authority independent of the courts. It is the investigating authority, prosecuting authority, and executive authority.
- The police is beholden to criminal prosecution and is governed by the legality principle.
- The juvenile judges are independent and are subject to the law, only.

- Criminal defence has a double position. It is an independent succour and autonomous organ of judicature, has access to records, a right to unsupervised and unlimited contact to the accused person, a right to presence,
- a right to speak up during every stage of the procedure,³² and the right to the application to produce evidence.
- The probation assistance is part of the third pillar of **criminal justice** in Germany. It is subject to the **resocialisation of offenders** and engaged in offering official and voluntary help for **self-help**. Behaving in conformity with the law is to be learned and behaving unlawfully is to be prevented.
- The juvenile court assistance renders social assistance to the adolescents and young adults concerned (helping function), looks after them during the criminal procedure and during a possible prison sentence (caretaking function), has an investigative function for justice only for the young person and his/her social environment, and supervises directives and conditions by the court.

Part of the network for delinquent young people are also the school authorities (integration of NEETs), the youth services (offer and execution of respective assistance), the free sponsors (execution of assistance), the employment agency (measures for integration), and the social work authorities (financial coverage).

In Italy, there is the department for juvenile justice and local community (JJCD), consisting of a central and a territorial administration. This handles the execution of the sanction decided by the juvenile justice authorities. This aims at the social and scholastic/ vocational resocialization of the adolescents. Juvenile justice centers manage the technical and financial planning and the aftercare operations. Juvenile custody centers ensure the execution of the directives given by the judges (such as provisional detention and imprisonment) against young offenders by the judicial authorities. The offices of juvenile social work make help available to young offenders at every stage of the criminal procedure. In cooperation with the juvenile judicial authorities, they work out reintegration projects. The judicial authorities can access the juvenile services of the law in every phase and to every degree of the procedure. The social service of the law is responsible for the evaluation of the adolescents' personality, in order to be able to justify the implementation of measures.

In all four countries, a good network structure is available for the work with juvenile offenders. It would nevertheless be interesting to show which network partners are involved in which processes, in order to compare them and to be able to make deductions for alterations. The legal foundations for age limits of the adolescents in the juvenile criminal law of the individual countries ought to be reconsidered as well. The present juvenile criminal law applies to adolescents up to the age of 18 or below 21 years of age, and the child and juvenile assistance law up to 27 or rather 29 years of age. A respective adaptation in the juvenile criminal law, also by taking into consideration the social change, would regulate assuming the assistance of young people, who have become criminal, much more clearly.

³² Arts. 244 par. 3-5 1 StPO

3 Conclusion

In all four countries participating in the BA-Network project, the situation of criminal and disadvantaged youths is described similarly. Differences in the statistical procedures make a direct comparison difficult, nevertheless, it becomes evident that a relatively stable proportion of adolescents and young adults is endangered by poverty and discrimination and/ or is experiencing criminal conduct. Even if the latter is frequently ascribed to the youth phase, there exists great danger that poverty and discrimination as well as criminal conduct will become firmly established, at once becoming a permanent problem for young people and for society as well. It has also become clear that the existing measures by the social authorities and the justice system have not yet yielded any satisfying results for many of the young people concerned.

Before this background, a model for alternative forms in the work with disadvantaged and delinquent young people will be documented and examined in the further course of this project. The results can be seen on: <http://www.betweenages-project.eu/results.html>