

Dealing with Juvenile Offenders in the Criminal Justice System

Jörg-Martin Jehle · Christopher Lewis · Piotr Sobota

Published online: 29 July 2008

© Springer Science + Business Media B.V. 2008

Abstract The treatment of juveniles within the criminal justice systems is a matter of great variety in the 11 European countries studied comparatively. The study focuses on the age of criminal responsibility, ways to divert juvenile offenders from the criminal justice system or avoid criminal justice responses to them, juvenile proceedings and special reactions and sanctions. In spite of different approaches there is a common trend towards preventing juvenile offenders from being treated by criminal courts and being sentenced to criminal sanctions.

Keywords Criminal responsibility · Diversion · European comparison · Juvenile offenders · Juvenile proceedings · Sanctions

Introduction

There is a long tradition throughout European criminal justice systems of treating young offenders in a special way. However, there are large differences between countries in terms of the procedures used. Sometimes juvenile offenders are diverted from the justice system, sometimes they get milder sanctions: often they are dealt with by special proceedings or

J.-M. Jehle (✉)

Department of Criminology, Institute for Criminal Law and Justice at the Law
Faculty of the University of Göttingen, Platz der Göttinger Sieben 6, 37073 Göttingen, Germany
e-mail: abtkrim@gwdg.de

C. Lewis

Institute of Criminal Justice Studies, Portsmouth University, University House,
Winston Churchill Avenue, Portsmouth, UK/ Hampshire PO1 2UP, UK
e-mail: chris.lewis@port.ac.uk

P. Sobota

Office of the Commissioner for Civil Rights Protection, Penal Law Division,
Al. Solidarnosci 77, PL-00-090 Warsaw, Poland
e-mail: p.sobota@brpo.gov.pl

courts or within the civil justice system. Consequently the impact of juvenile offending on the workload of the justice system differs from one country to another. Since young offenders tend to commit crime at a relatively high rate, this strongly influences the overall picture gained from the total figures of criminal cases dealt with by the criminal justice system. Therefore to understand the overall picture we need to observe the national differences in handling juvenile offenders in order to make an appropriate comparison¹.

Taking a historical perspective, the roots of our present systems go back to the Roman law that influenced criminal jurisdictions up to the 18th century. This differentiated between *infantes* (children up to 7 years) without any criminal responsibility, *impuberes* (children between 7 and 13 years old) who expected no, special or milder sanctions, and *minores* (14 to 25 years old) who were usually sentenced like an adult, but could get milder sanctions in special cases. The first modern criminal code, the French Code Penal (1810), was established at the beginning of the 19th century and provided a model for other national criminal codes in continental Europe. It stated an age of full criminal responsibility (16 years) and below that juveniles with a relative responsibility. This meant that it had to be proved whether the juvenile offender possessed the capability to be guilty. If he did not then there could be no punishment. If he did then the sanctions would be similar to an adult's but milder. The separate jurisdictions of England and Wales, Scotland and Ireland were little influenced by the Code Penal.

From the beginning of the 20th century this judicial approach was complemented by a social approach towards juvenile delinquency. Measures of child care and education complemented or replaced criminal justice sanctions. This has led to the current variety of societal and judicial responses to juvenile offences and offenders that exists throughout Europe. We can reduce this variety to three ideal type models for dealing with juvenile offenders.

1. **Diversion:** The juvenile offender is not subject to criminal prosecution and criminal proceedings but to social agencies and to proceedings run by a sort of family court. This is especially true for Poland (see below) and some Eastern European countries, but one can find elements of this approach in Scotland and Scandinavia as well. Usually diversion is not the exclusive approach and cases of very serious offences like murder and rape are subject to criminal prosecution.
2. **Milder Sentence:** The juvenile offender is treated by criminal prosecution and the same criminal courts as an adult offender, but is sentenced in a milder form. This response is characteristic of many European criminal justice systems but usually alternative measures can be applied as well.
3. **Special criminal treatment:** The juvenile offender is subject to criminal prosecution and criminal proceedings as part of the criminal justice system as a whole, but separate from those referring to adults. This usually means special criminal proceedings, special criminal courts and special sanctions, predominantly of an educative nature. This model can be seen in Germany where a special code provides for special proceedings, specialized prosecutors and courts, and special sanctions (mainly educative measures) totally different from the penalties imposed on adult offenders. With certain exceptions these processes can also be found in other European countries.

¹ For an overview of different systems see Albrecht and Kilching (2002); Cavadino and Dignan (2006); Dünkel et al. (1997); Shoemaker (1996); Tonry and Doob (2004).

There are, of course, national systems that cannot be clearly assigned to any of these three models. Nevertheless they establish a helpful framework for further comparative analysis.

Age Groups of Criminal Responsibility

In all countries studied² children up to a certain age are seen as incapable of committing a criminal offence (see Table 1). Mostly the starting point for criminal responsibility is the age of 14 or 13 (France) or 12 (Netherlands, Turkey). In England and Wales children from 10 years on can be criminally prosecuted and in Switzerland – until 2006 - even from 7 years on. On the other hand criminal responsibility starts later in Sweden (15 years), and in Poland juveniles are criminally prosecuted from 17 for minor or medium offences. Beyond these ages young people can be dealt with by criminal courts. Usually up to a certain age they do not get the full sentences imposed on adults. This upper limit of full criminal responsibility has – except for Poland – been fixed by the age of 18.

Nevertheless in all countries except for Hungary there is a time span of some years, mostly until they are of 21, where, under certain circumstances, young adults can be treated as juveniles: e.g. in Germany young adults up to 21 can be treated and sentenced like juvenile offenders if the moral, psychological and social maturity of the offender is that of a juvenile or if the type, circumstances or motives of the offence were typical of a juvenile short-coming (Juvenile Courts Act – section 105 JGG). Criminal proceedings usually take place at special juvenile courts and sentences imposed are typically of an educative nature. In Switzerland that time-span is even longer and young adults can still be treated like juveniles until they are 25.

Treatment of Juveniles

Regularly juveniles are subject to different proceedings and sanctions, but the modes and forms of this special treatment differ from country to country (see Table 2). Except for Poland (see below) offences of juveniles are seen as criminal acts and handled within the criminal justice system. Usually there are special proceedings (except for the Netherlands) with special divisions of PPS and courts acting. All systems provide special measures with a special focus on education; some exclusively like in Germany, some jurisdictions alternatively provide milder adult sentences.

In **Germany** juveniles who commit criminal offences defined by the general criminal law are prosecuted and sentenced according to the Act on Juvenile Courts. The investigation is lead by the regular criminal prosecution authorities. Even in juvenile crime proceedings the PPS is “head of the investigation”. There are no special investigation services. However, special trained and responsible police officers often deal with juvenile cases. A special branch of the Youth Welfare Office, the so called Juvenile Court Aid, supports the prosecutor and the court during the proceedings (section 38 III JGG). There are special prosecutors for juvenile cases at the PPS. These prosecutors should have a special

² For the different countries see Aebi and Balcells (2008); Aubusson de Cavarlay (2006); Bulenda et al. (2006); Blom and Smit (2006); Elsner and Peters (2006); Gilliéron and Killias (2008); Hakeri (2008); Lewis (2006); Roth (2008); Turkovic (2008); Zila (2006).

Table 1 Age of criminal responsibility

| | Age of criminal responsibility | Full adult responsibility at age | Group in between? |
|----|--------------------------------|----------------------------------|-------------------|
| CH | (7) ¹ 10 | 18/25 | ² |
| D | 14 | 18/21 | Yes |
| E | 14 | 18/21 | Yes ³ |
| EW | 10 | 18 | Yes ⁴ |
| F | 13 ⁵ | 18 | Yes |
| H | 14 | 18 | No ⁶ |
| HR | 14 | 18/21 | Yes ⁷ |
| NL | 12 | 18 | Yes ⁸ |
| PL | 15 ⁹ /17 | 17/21 | Yes |
| S | 15 | 18/21 | Yes |
| TR | 12 ¹⁰ | 18 | Yes |

¹ Until the end of 2006 children having reached th age of 7 were criminally responsible. Now responsibility starts at the age of 10.

² 18–25 year olds can exceptionally be treated as juveniles.

³ Under certain circumstances: falta or less serious offence without violence or intimidation, without criminal record, personal circumstances consider it appropriate to treat the suspect as a juvenile.

⁴ The position is very complex for young people aged between 10 and 17. There are many aspects of law and practice where different age groups within this range are treated differently, depending on the circumstances of the offence or type of punishment. All agencies have some form of diversionary power, with many of the, particularly younger age groups being dealt with by civil orders, warnings, reprimands, discharges, educational or reparation orders of various kinds, usually conditional on good behaviour.

⁵ Juveniles can already be brought to the court (judge d'enfants) at the age of 7 but they can not be sentenced.

⁶ But 18–21 year olds regarded as young adults and this as a mitigating circumstance.

⁷ Dealt with as juveniles if this is considered appropriate (act deemed to be a consequence of youth).

⁸ 16–17 years old can be dealt with according to adult criminal law. In practice this group is usually treated as juveniles. 18, 19, 20 years old can be dealt with according to juvenile criminal law. In practice this group is usually treated as adults. The judge decides whether to apply juvenile criminal law or not.

⁹ For the most serious crimes the limit of criminal incapability is reduced to 15 years.

¹⁰ Under the age of 15 will only be culpable if is capable of understanding the meaning and the effect of his/her act.

qualification to deal with the cases of juvenile and adolescent offenders, but basically they are ordinary prosecutors and judges (section 36 JGG).

The juvenile courts adjudicate in cases of criminal offences committed by juveniles and adolescents (18–20) (section 33 I JGG.) Juvenile courts do not form an independent court organisation, but are special bodies within local and regional courts. Dependent on the seriousness of the offence, either a juvenile judge as criminal judge, the juvenile court consisting of a judge and two lay judges or the juvenile chamber is relevant here. There are also simplified and accelerated proceedings (§ 76 JGG). however, since diversionary powers are gaining increasing influence such proceedings are not very important in practice. Apart from that, no supplementary procedures exist: neither are other forms of simplified proceedings (e.g. the penal order) provided, so that no private influence can endanger the corrective and educational quality of the outcome.

Besides diversionary measures (see below) court sentences in Germany refer to educative measures, including the requirement that the offender accepts certain forms of educative assistance and constraint, (e.g. socio-educational support or residential accommodation with back-up support from social workers, place of residence, participation in a

Table 2 Juvenile offenders are

| | CH | D | E | EW | F | H | HR | NL | PL | S | TR |
|--|----|---|----------------|----|---|----------------|----------------|----|--------------|-----------------|----------------|
| Considered criminal | X | X | X ¹ | X | X | X | X | X | ² | X | X |
| Dealt with by the CJS | X | X | X | X | X | X | X | X | ¹ | X | X |
| Subject to different proceedings | X | X | X | X | X | X | X | | X | X | X |
| Dealt with by a different investigative authority | | | | | | | X ³ | | X | | |
| Dealt with by PPS | | | X | X | | | | | | X | X ⁴ |
| Dealt with by special division of PPS | X | X | X | | X | X | X | X | | | |
| Dealt with by special division of criminal court | X | X | X | X | X | X ⁵ | X ⁶ | X | | | X ⁷ |
| Dealt with by non-criminal court | | | | | | | | | X | | |
| Subject to the same sanctions/consequences as adults but milder | | | | X | X | | X | X | | X | X |
| Subject to different reactions | X | X | X | X | X | X | X | X | X | X | X |
| Accelerated/Simplified proceedings are available | X | X | X ⁸ | X | X | X ⁹ | | X | | | |
| Subject to decisions for which other institutions are also responsible | | | | X | | X | | | | X ¹⁰ | |

¹ There will be no criminal record.

² In case of the most serious offences criminal prosecution and herewith normal criminal proceedings take place.

³ Judge for juveniles – may ask police for support.

⁴ PP only, if necessary specially trained police officer.

⁵ Special panel of criminal court – one lay judge must be a teacher.

⁶ In difficult cases where a juvenile has acted together with an adult, if it is difficult to separate proceedings, both will be tried within “normal” CJS using juvenile criminal law for the juvenile (wherever possible trials are separated).

⁷ Where not available, the normal court applies rules for juveniles.

⁸ Plea bargaining is also possible in juvenile cases (highly practiced).

⁹ But not waiver of the trial.

¹⁰ Transfer to social care.

course of social training, work, or attempts to achieve offender-victim mediation.) The juvenile is to be made aware of the injustice of his action, without this requiring youth imprisonment. Disciplinary measures are intended as a sanction and include cautions, the imposition of conditions (e.g. reparations for the injury, apologies to the injured party, payment of a fine, community work) and detention, which can range from a weekend to up to four weeks. Youth imprisonment is the only real criminal punishment available under the Act on Juvenile Courts. Its length is restricted to a period of between six months and ten years; a sentence of up to 2 years can be suspended.

In **Switzerland** since 2007 juveniles between 10 and 18 can be treated by special measures: admonition, personal obligation, supervision and care, ambulant treatment, stationary treatment in educative institutions. Furthermore the age group of 15 to 18 years old can be sentenced to fines and imprisonment (up to 4 years).

In **England and Wales**, proceedings for juveniles were last amended in 1998 with the setting up of the Youth Justice Board with responsibility for juvenile offending. The three aspects to the YJB’s work are Prevention: action Pre-Court: and action together with the Court.

(see <http://www.yjb.gov.uk/en-gb/yjs/TheSystem/> for more detail).

- Prevention: Problems may lead to a young person's anti-social behaviour (poor education, poor family relationships, family members/peers who have offended, substance misuse.) YJB deals with such problems through youth inclusion programmes, youth inclusion and support panels, parenting interventions, safer school partnerships and mentoring.
- Pre-court: If such programmes do not work various minor sanctions can be given to reinforce the idea that the child's behaviour is unacceptable (reprimands, final warnings, acceptable behaviour contracts, anti-social behaviour orders, individual support orders, child curfews, or, for under 10-year olds, child safety orders.
- Action with the court: If the child is thought to have committed a very serious offence then the court can remand him before trial on bail with or without conditions or to special local authority accommodation or to custody. Trial will then be at a Crown Court. For most offences, where pre-court measures have failed, the young person will appear before a youth court where formalities are at a minimum. There are many orders and sentences: the custodial sentences are a detention training order and a more serious sentence without limit for very serious offences. Sentences in the community are the supervision order, the community rehabilitation order, the community punishment order, the action plan order, the attendance centre order, the referral order, the reparation order, the fine, or a discharge: all these sentences can be associated with a curfew order, a parenting order and a drug testing and treatment order. (see <http://www.yjb.gov.uk/en-gb/yjs/SentencesOrdersandAgreements/> for more detail).

In **Poland** the situation is totally different. Except for very serious cases which are subject to criminal prosecution, juvenile offenders are not dealt with by normal criminal institutions at all but under the Law on Proceedings with Juveniles (1982). This Law has been amended several times and despite the fact that it has become more and more difficult to apply in practice, it is still in force. Many commentators now feel there is an urgent need to adopt a new law concerning juveniles: however at the time of writing (February 2008) there is no proposal for such a new law.

The aim of such juvenile proceedings is not to punish but to protect the juveniles and prevent further demoralization and delinquency. Because of this a juvenile offender is not punished in the meaning of criminal law (except as described below) but only educational or correctional measures can be applied, with the aim, at least in theory, to improve the behaviour of the juvenile and to strengthen his family.

Proceedings with juvenile offender are initiated when (inter alia) a juvenile commits a "punishable act". A term "punishable act" in this context mean behaviour that would be an offence or fiscal offence or one of 11 kinds of petty offences (*wykroczenia*)³ In the case of other petty offences a juvenile offender can be dealt with by a family court if committing such a petty offence is regarded as a symptom of his or her need for some form of treatment. The court may react towards a "punishable act" by imposing an "educational measure" (e.g. a reprimand, agreeing to some form of regret being shown to the victim, probation, obligation to go to school, agreement not to drink alcohol, etc.). The only "true sanction" (a correctional measure) is to place a juvenile into a correctional centre for undefined period up to age of 21. This can happen when he or she has committed an

³ As defined by the Petty Offences Code examples are: theft of goods valued up to 250 PLN (about 60 Euros), vandalism of road signs, throwing stones at a moving vehicle, driving under influence of alcohol, criminal damage to property of a value up to 250 PLN.

offence or a fiscal offence and previously applied measures have had no effect or if there is no hope that other measures would be effective. If a juvenile offender is at least 18 and there are reasons to place him or her into a correctional centre, then a family court may apply punishment provided by a Criminal Code.

Cases against juveniles appear before (non-criminal) family and juvenile courts (divisions of magistrates' courts). In special circumstances and for more serious offences, the Penal Code and criminal court may be involved. This is especially true in case of very serious crimes such as homicides, rapes etc., and for multiple cases. The court may also apply an extraordinary mitigation of punishment.

There are no accelerated or simplified proceedings according to the Law on Proceedings with Juveniles.

PPS Function and Power within Juvenile Proceedings

On police level in most criminal justice systems the police are bound by the principle of legality, so they are not allowed to drop a case or dismiss it conditionally. In minor cases the English and the Swedish jurisdiction provide simple police drops. Furthermore the police in the Netherlands are involved in the so called *transactie* procedure, where the PPS delegates the power to drop cases conditionally to the police in certain minor cases (see Blom and Smit 2006).

Because of the long common law tradition the police in **England and Wales** have a different function in terms of prosecution and charges. The police work with the local agencies of the YJB (see above) especially in pre-court actions. This is because the police have the power to sanction the offender themselves, whether or not he is a juvenile. They can do this by the issue of a warning, a final reprimand, or a caution: these may, or may not have conditions attached to them, and the prosecutor may or may not be involved in directing the police to carry out this sanction. In some cases such as public order offences, the police can, over more recent years, issue a fixed penalty fine, if the offender agrees to this. The police treat juvenile offenders differently from adults in the issue of these sanctions. Table 3 shows the differences between cautions given to offenders by age group. At the age of 10, nearly all young offenders are cautioned, especially females, but this gradually rises until the age of 21.

As Table 4 shows, in almost all countries PPS has the same function of the charging authority and also the possibility to participate in juvenile proceedings. There is no difference compared to its function in the adult criminal proceedings.

Concerning the investigative stage PPS is involved in the same manner as in adult criminal law. In most countries there are specially trained personnel at the PPS who take over juvenile cases. In Switzerland and Croatia special juvenile prosecutors exist. Only in Poland the investigation is completely conducted by the competent family court.

In **Poland** it is the family judge who conducts investigations in cases concerning juvenile offenders. Usually however all the information that the judge has on the case

Table 3 Young offenders, England and Wales: Percentage cautioned of all young offenders cautioned or found guilty (indictable offences, 2005)

| Age Group | 10–11 | 12–14 | 15–17 | 18–20 | 21+ |
|-----------|-------|-------|-------|-------|-----|
| Males | 87% | 69% | 47% | 35% | 25% |
| Females | 95% | 87% | 69% | 52% | 41% |

comes from the Police. Therefore the Law on Proceedings with Juveniles provides some competence for the Police. In particular the Police can:

- examine the juvenile (in the presence of his/her parents or a lawyer),
- arrest the juvenile and place him/her to a “police children’s room” for up to 72 hours,
- collect other evidence about the case.

Some cases may be also transferred by a family judge to a school or organization to which a juvenile belongs. This can happen when a judge finds that the educational measures which he thinks sufficient in a particular case are within competence of such school or organization.

The juvenile offender’s case may be also transferred between the public prosecutor and the family judge and vice versa. In general a prosecutor should pass a case to a family judge, when it is realised that a juvenile has committed a “punishable act” (for example when at the beginning of investigation there was no information about who was an offender). In exceptional situations, when an offence was committed jointly by an adult and a juvenile, a case may be dealt with by a prosecutor and a “normal” criminal court, applying the provisions of the Law on Proceedings with Juveniles.

On the other hand a family court may pass a juvenile offender’s case to a “normal” criminal court when:

- the juvenile is between 15 and 17 and
- he/she is accused of a “serious crime” (assassination of president, murder or homicide, aggravated assault, causes of high danger, hijacking, catastrophe, rape, taking hostage, robbery) and
- the mental state of development of the juvenile, his characteristics and personal situation warrant it, and especially when previously applied educational or corrective measures have proved ineffective.

In such case, the penalty imposed may not exceed two-thirds of the statutory maximum penalty for the offence. The court may also apply an extraordinary mitigation of punishment.

Except in Poland (where the PPS has no discretionary power) the PPS has the power either to simply drop minor cases because of no public interest or dismiss cases if a certain condition like a community service order has been fulfilled. In some countries most criminal offences committed by juvenile offenders are dealt with by the PPS, some with the consent of the court and some without.

Table 4 Diversionary powers for juvenile cases

| | CH | D | E | EW | F | H | HR | NL | PL | S | TR |
|-------------------------|----|---|----------------|----|---|---|----|----|----|----------------|----------------|
| Police | | | | | | | | | | | |
| Drop (Public Interest) | | | | X | | | | | | X | |
| Conditionally Dismissal | | | | X | | | | X | | | |
| PPS | | | | | | | | | | | |
| Drop (Public Interest) | X | X | X | X | X | X | X | X | | | |
| Conditionally Dismissal | | X | X ¹ | X | X | X | X | X | | X ² | X ³ |
| Court only | | | | | | | | | X | | |

¹ Mediation.

² Waiver of prosecution 20 Chap. 7 Art. CJP.

³ Postponing case available for non for non-recidivists where punishment is not over two years.

In **Germany** this kind of PPS diversion applies to most criminal proceedings; only a minority of juvenile and adolescent offenders being dealt with in a main hearing (see Elsner and Peters (2006). The Prosecution Service Function within the German Criminal Justice System in Jehle/Wade, pp. 231 onwards). These diversionary decisions can, where taken with the approval of the court, be linked to the imposition of certain conditions and instructions on the offender like community service and victim-offender-mediation. In minor cases, it may be sufficient that other educative measures have been taken or introduced or that the offender has attempted to make good the injury suffered by the victim. And in cases of first-time-offenders and small value involved a simple drop is usually the only consequence.

In **England and Wales** the PPS has no diversionary powers for juvenile or for adult offenders. When dealing with young offenders, the PPS has by law to give priority to stopping youth offending. This is usually done through the appointment of a specialist Area Youth Justice Coordinator, who provides advice to the area Chief Prosecutor on youth matters, liaises with other agencies; and is a focal point for advice on good practice. The PPS decide whether or not to charge a young offender, or whether to ask the police to take some diversionary action, such as a (conditional) caution.(for more details please see: http://www.cps.gov.uk/legal/section4/chapter_b.html#01).

Table 5 Records kept for Juveniles of

| | Recorded | | Access to register/record | | |
|---|--|--|---------------------------|------------------|---|
| | Entry into register | “Normal” criminal record | Limited access | Unlimited access | Access as for normal criminal record |
| Police drop(public interest) | NL ¹ , S | | | | |
| Police conditional disposal | NL ² | EW | EW | | EW |
| Police Caution | EW | | EW | | |
| PPS drop (public interest) | CH, D, F, HR, NL, TR | EW, H, S ³ | CH, D, HR, TR | | H, NL |
| PPS conditional disposal | D, F, HR, NL, S ⁴ | H, TR | D, HR, TR | | H, NL, S |
| Conviction by criminal court (for juveniles) | D, E, EW, F, HR ⁵ , NL, PL, S | CH, D ⁶ , EW, F, H, NL, PL, S, TR | CH, D, E, EW, F, HR, TR | | CH, EW, H, HR ⁷ , NL, PL, S, |
| Court decision other than conviction (in criminal courtfor juveniles) | D, F, NL | EW, H, TR | D, EW, TR | | EW, H, NL |
| Other court | PL | PL | PL | | PL |

¹ It is a local record.

² It is a local record.

³ Waiver of prosecution according to CJP Chap. 20 art 7 is recorded as conviction.

⁴ Waiver of prosecution according to 20 Chap. Art. 7 CJP.

⁵ Educational measures.

⁶ Only if sentenced to youth imprisonment.

⁷ Juvenile imprisonment.

Consequences of a Juvenile Sanction/Reaction

In order to prevent juveniles from being labelled as a criminal most jurisdictions provide for non public closed proceedings and hearings. A similar need arises when considering the consequence of the trial. Most countries have special arrangements for records of proceedings dealing with juveniles as can be seen from Table 5.

In most of the countries there is a special register where juvenile offenders are kept. Here particularly PPS informal decisions (drop and disposal) are recorded; convictions, however, are mostly kept in the normal criminal register. But nevertheless there is only limited access to this register.

In Germany two forms of register exist, the 'central register' which holds all convictions of the adults cases and the sentences of juvenile imprisonment on the one side; on the other side the so-called register of educative measures where all other measures according to the Act of Juvenile Courts are recorded including the diversionary disposals of the PPS. The entries in the latter register are held until the 24th birthday of the person concerned, but they are not accessible, only to criminal justice system authorities. They are deleted if there are no prison sentences recorded in the central register at this point of time.

In England and Wales the same procedure is used for records of young people as for records of adults. A person sentenced for a crime gets a criminal record even if he is given an absolute discharge. A caution is also recorded but for five years only. This can cause difficulties: e.g. if he applies for a job he may be asked if he has a criminal record. There is complicated procedure for deciding when a conviction is 'spent' and no longer has to be disclosed. (for details see <http://www.youthinformation.com/Templates/Internal.asp?NodeID=90766>).

In Poland even if the juvenile is dealt with by a non-criminal court, the sentence will nevertheless be recorded in the normal criminal register.

Conclusions

All jurisdictions studied in this project tend to divert juveniles from serious criminal consequences at least as far as minor offences are concerned, but the modes of diversion differ much from country to country. An example for an almost total decriminalisation is Poland: there the juvenile offender who commits an offence of not serious nature defined in the penal code is not seen as having committed criminal offence and is therefore not handled by the public prosecutor within criminal proceedings. In England and Wales it is the police who can drop the case of a juvenile offence or end the proceedings by cautioning the juvenile offender either through their own decision or at the suggestion of the prosecutor. In other countries like Germany the public prosecutor is the key player in terms of diverting juvenile offenders; he has the right to drop minor cases or dispose of them by imposing a sort of voluntary condition (with or without court's consent). The effect of the different modes is quite similar: Most of the criminal proceedings do not reach the court level. However, differences occur as to recording and registration of these juvenile offences: Except for Poland these offences show up in the crime statistics. In some countries like in England and Wales the reaction even in form of cautioning is seen as a conviction and therefore lead to a criminal record. In other countries the informal disposals are only recorded in internal registers accessible just for criminal justice system agencies. This means one has to be very cautious if one compares rates of juvenile offending in the

different countries on the basis of criminal records or statistical data on police, prosecution or court level.

References

- Aebi, M., & Balcells, M. (2008). The prosecution service function within the Spanish criminal justice system. *European Journal on Criminal Policy and Research*, 14(2–3), 311–331.
- Albrecht, & Kilching. (2002). Jugendstrafrecht in Europa, Freiburg i.Br.; Max-Planck-Institut für ausländisches und internationales Strafrecht.
- Aubusson de Cavarlay, B. (2006). The prosecution service function within the French criminal justice system. In J-M. Jehle, & M. Wade (Eds.), *Coping with overloaded criminal justice systems – The rise of prosecutorial power across Europe* (pp. 185–205). Berlin: Springer.
- Bulenda, T., Gruszczynska, B., Krempleski, A., & Sobota, P. (2006). The prosecution service function within the Polish criminal justice system. In J-M. Jehle, & M. Wade (Eds.), *Coping with overloaded criminal justice systems – The rise of prosecutorial power across Europe* (pp. 257–285). Berlin: Springer.
- Blom, M., & Smit, P. (2006). The prosecution service function within the Dutch criminal justice system. In J-M. Jehle, & M. Wade (Eds.), *Coping with overloaded criminal justice systems – The rise of prosecutorial power across Europe* (pp. 237–256). Berlin: Springer.
- Cavadino, & Dignan. (2006). *Penal systems. A comparative approach*. London: Sage.
- Elsner, B., & Peters, J. (2006). The Prosecution service function within the German criminal justice system. In J-M. Jehle, & M. Wade (Eds.), *Coping with overloaded criminal justice systems - The rise of prosecutorial power across Europe* (pp. 207–236). Berlin: Springer.
- Düinkel, van Kalmthout, & Schüler-Springorum (1997). *Entwicklungstendenzen und Reformstrategien des Jugendstrafrechts im Europäischen Vergleich*. Bonn-Bad Godesberg: Forum Verlag.
- Gilliéron, G., & Killias, M. (2008). The prosecution service function within the Swiss criminal justice system. *European Journal on Criminal Policy and Research*, 14(2–3), 333–352.
- Hakeri, H. (2008). The prosecution service function within the Turkish criminal justice system. *European Journal on Criminal Policy and Research*, 14(2–3), 353–368.
- Lewis, C. (2006). The prosecution service function within the English criminal justice system. In J-M. Jehle, & M. Wade (Eds.), *Coping with overloaded criminal justice systems – The rise of prosecutorial power across Europe* (pp. 151–184). Berlin: Springer.
- Roth, E. (2008). The prosecution service function within the Hungarian criminal justice system. *European Journal on Criminal Policy and Research*, 14(2–3), 289–309.
- Shoemaker (1996). *International handbook on juvenile justice*. Westport/CT: Greenwood Press.
- Turkovic, K. (2008). The prosecution service function within the Croatian criminal justice system. *European Journal on Criminal Policy and Research*, 14(2–3), 263–287.
- Tonry, & Doob, (2004). *Youth crime and youth justice: Comparative and cross-national perspectives*. Chicago University Press (Crime and Justice, Vol. 31).
- Zila, J. (2006). The prosecution service function within the Swedish criminal justice system. In J-M. Jehle, & M. Wade (Eds.), *Coping with overloaded criminal justice systems - The rise of prosecutorial power across Europe* (pp. 285–311). Berlin: Springer.

For detailed information on national questionnaires see www.kriminologie.uni-goettingen.de/pps.