

# BETTER IN EUROPE?

## European responses to young adult offending

**Dr Ineke Pruin and Professor Frieder Dünkel**  
Universität Greifswald

### Executive Summary



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The report '**Better in Europe? European responses to young adult offending**' was funded by the **Barrow Cadbury Trust** as part of the work of the **Transition to Adulthood (T2A) Alliance** - a broad coalition of 13 leading criminal justice, health and youth charities - working to evidence and promote the need for a distinct and effective approach to young adults (18-24 year olds) in the transition to adulthood, throughout the criminal justice process. T2A is convened and funded by the **Barrow Cadbury Trust**. The Trust is an independent, charitable foundation, committed to bringing about socially just change [www.barrowcadbury.org.uk](http://www.barrowcadbury.org.uk).

T2A Alliance's membership of 13 organisations includes: Addaction, BTEG, Catch 22, Centre for Crime and Justice Studies (CCJS), CLINKS, Criminal Justice Alliance (CJA), Howard League for Penal Reform, Nacro, the Prince's Trust, Prison Reform Trust, Revolving Doors Agency, the Young Foundation and Young Minds.

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### Universität Greifswald

Greifswald's Department of Criminology has an international reputation for excellence in research, and for particular expertise on how criminal justice systems throughout the world respond to crimes committed by young adults. The Department of Criminology's work covers topics such as juvenile criminal law and the practical application of sanctions.

<http://jura.uni-greifswald.de/dunkel>

Published March 2015



The Barrow Cadbury Trust is an independent charitable foundation, committed to bringing about socially just change. We provide grants to grassroots community groups and campaigns working in deprived communities in the UK, with a focus on Birmingham and the Black Country. We also work with researchers, think tanks and government, often in partnership with other grant-makers, to overcome the structural barriers to a more just and equal society.

# EXECUTIVE SUMMARY

## Introduction

**T**he question of how to respond appropriately to the offending of young adults has emerged as a point of increased focus within international criminological research and criminal policy. On the basis of new research results concerning the maturation process of young persons, it is questionable whether it can be seen as adequate on the basis of chronological age alone to immediately and abruptly bar young adult offenders from the special regulations, approaches and procedures provided for under juvenile justice legislation.

Criminological findings highlight that early adulthood is a pivotal period in the course of criminal careers. While the majority of people stop behaving in a criminal manner during this phase of life (often without the need for state intervention), for some groups it can also mark the onset of criminal episodes. According to Loeber et al's (2012) convincing research, the course that an individual's offending behaviour takes is dependent on several factors, for example brain maturation and self-control, or (not) accomplishing transitions to adult roles like parenthood and stable employment. Overall, research has shown that the development of criminal behaviour during young adulthood can take very individual, subjective courses, which implies a need for flexible and individualised criminal justice responses which are in most countries available in juvenile justice but not in the adult justice system, which usually provides prison sentences and fines as answers to offending.

Sociological research has revealed that important youth to adulthood transitions, that are said to be associated with desistance from crime, have come to be completed later and later in life. Nowadays, in many countries, getting married, having children and moving out of the parental home in their late 20s is the norm and in many young persons' lives. Longer periods of education and youth unemployment for example have postponed young people's entry to the labour market and stable employment significantly, and ominously high rates of youth unemployment across Europe indicate that many young people will fail to make this transition entirely. Results from research into the anatomic-physiological maturation of the brain and into psychosocial and cognitive development emphasise that brain development (in particular higher executive functions of the brain, such as planning, verbal memory and impulse control) continues up until the age of 25 and possibly even beyond.

**“important role transitions, that are said to be associated with desistance from crime, have come to be completed later and later in life”**

## European approaches to young adults in the criminal justice context

These findings indicate that applying juvenile justice sanctions to young adults beyond age 18 is justifiable, because young adults, like juveniles, must be considered less culpable than older adults due to their psychosocial immaturity.

Almost all European justice systems have accepted that the specific circumstances of the age of young adulthood has to be reflected in the criminal justice laws and/or practice, but they respect the age of young adulthood in different ways. The most extensive way is the incorporation of young adults into the scope of the juvenile justice provisions something called for by different international recommendations. Germany is a prominent example of a jurisdiction that has done so. The application of juvenile justice measures and the full integration of young adults into the juvenile justice court system accords the courts more flexibility in sentencing as they are more open to individualisation, and at the same time allows the courts to take maturity (or a lack of) into consideration by mitigating punishment. As of April 2014, the Netherlands might well supersede Germany as the European pioneer in providing a special approach to young adult offenders. The new ‘adolescentenstrafrecht’ allows for juvenile justice provisions to be applied to young adults up to the age of 23.

“Almost all European justice systems have accepted that the specific circumstances of the age of young adulthood to be reflected in the criminal justice laws and/or practice, and they respect young adulthood in different ways.”

Many countries have implemented legal provisions that provide for sentences to be mitigated for young adults, which in itself already constitutes a form of legal recognition of their special situation. It appears to be a widely accepted fact that turning 18 alone does not justify transferring young people to adult prisons: it is common practice in Europe for young adult offenders to be allowed to remain in the youth prison system into their early 20s. However, opinions differ as to whether or not establishing separate penal institutions is appropriate or advisable practice. While experiences with specialised young adult prisons appear to have been positive in Germany and Switzerland, the Netherlands and England/Wales have made reports to the contrary.

Overall, the interdisciplinary research strongly suggests that young adulthood is a crucial and sensitive period in the life course that is characterised by wide-ranging changes and transitions, the (non)accomplishment of which appears to have a significant impact on life trajectories and criminal careers. Against this backdrop, adapting the way in which the state responds to young adult offending would be a justifiable conclusion.

If employing a more tolerant, cautious approach to dealing with juvenile offenders has its justification in the notion that they are still maturing and developing and can thus still be positively influenced, then the interdisciplinary findings relating to young adulthood presented in this report can easily be taken as evidence that such an approach would be appropriate for young adults as well.

To include young adults in the youth justice system in appropriate cases or even in general, opens the door to a wider range of interventions that allow the courts to tailor their sentencing decisions in an individualised fashion in each case, rather than subject young adults to primarily retributive sanctions that can hinder positive personal development rather than promote it.

Resorting to re-integrative measures that seek to promote positive trajectories, for instance by strengthening social bonds and fostering positive outlooks, is likely to have a more promising effect on desistance than disintegrative sanctions.

**“young adulthood is a crucial and sensitive period in the life course that is characterised by wide-ranging changes and transitions, the (non) accomplishment of which appears to have a significant impact on life trajectories and criminal careers.”**

# KEY POINTS

1

International criminological research has found that there is little evidence to justify why the same regulations, procedures and legislation are not applied to young adults (18-24) as to the under 18s.

2

Research has also found that early adulthood is a crucial period in 'criminal careers'. Whilst some young adults may stop engaging in risky behaviour at this stage, many increase their activities and may in fact start getting into trouble at this point in their lives.

3

There are several factors which influence the likelihood or not of getting involved in criminal activities, including parenthood, steady employment, self control, and brain maturation.

4

On desistance from crime, research has revealed that the factors linked with not offending (see point 3 above) are happening later and later in life. In many countries young people are not moving out of the parental home, having children, or acquiring a partner until their late 20s.

5

Research into brain maturity has found that psychosocial and cognitive development continues up to age 25 and possibly even beyond. For this reason juvenile justice rationale and functions should be applied to the young adult age group because of their psychosocial immaturity.

6

Inter-disciplinary research on this subject has found overwhelmingly that young adulthood is a crucial and sensitive period in young peoples' lives, with wide-ranging changes and transitions, which can have a significant impact on the trajectory of their lives and on the likelihood of whether they engage in criminal activities. If it has been widely accepted that juveniles should be treated in a unique way then research findings and recommendations which say that young adults should be treated uniquely should also be put into practice.

7

Criminal justice responses to young adult behaviour need to be flexible and subjective. The report argues that in most countries this flexibility is available for juveniles but not for adults, which results in longer prison sentences and unrealistic fines.

8

The report found that it is widely accepted that turning 18 does not justify transferring young people to adult prisons, and it is common practice in Europe for young adult offenders to be allowed to remain in the youth prison system into their early 20s. However, there is no consensus around whether establishing separate penal institutions would be appropriate or advisable. Whilst in Germany and Switzerland there have been some positive experiences reported in this area, in the Netherlands and England and Wales, the opposite has been found to be the case.

9

Almost all European justice systems have accepted that young adulthood should be reflected in criminal justice laws or practice. Germany is one of these European justice systems. Juvenile justice measures are fully integrated into young adult decision making, which gives the courts more sentencing flexibility, allowing them to take maturity (or lack of it) into consideration as a mitigating factor. Since April 2014 the Netherlands too has become a European pioneer in implementing a tailored approach to young adult offenders up to the age of 23.

10

Applying young adult specific practice would give the courts a wider range of interventions and enable the judiciary to tailor responses to individuals in an effort to mitigate life-long disadvantage and ongoing involvement in the criminal justice system.

# TABLE



Country	Special rules for young adults providing the application of specific (juvenile law) sanctions	Special rules for young adults implying sentence mitigation	Age range for youth detention/custody or similar forms of deprivation of liberty
Austria	✓	✓	14-27
Belgium	✓ <sup>1</sup>	✗	Only welfare institutions
Bulgaria	✗	✗	14-21
Croatia	✓	✗	14-21
Cyprus	✗	✓	14-21
Czech Republic	✓ <sup>2</sup>	✓	15-19
Denmark	✓ <sup>3</sup>	✓	15-23 <sup>4</sup>




























<sup>1</sup> If the offence was committed before the 18th birthday, juvenile welfare measures can be prolonged until the 23rd birthday.

<sup>2</sup> Application of educational measures and mitigation of sentences if the young adult is at an age 'close to a juvenile'. According to the jurisprudence this is the case until the age of 21 has been reached.

<sup>3</sup> Mandatory: until the age of 19 in youth prison.

<sup>4</sup> No special juvenile law. Special regulations with respect to early release can be applied to young adults. Furthermore, young adults can be placed in alternative institutions, see Corrections Act, sect. 78 (formerly Criminal Code, sect. 49, subsection 2).



Country	Special rules for young adults providing the application of specific (juvenile law) sanctions	Special rules for young adults implying sentence mitigation	Age range for youth detention/custody or similar forms of deprivation of liberty
England/Wales	 <sup>5</sup>	 <sup>6</sup>	10-13 / 14-21 <sup>7</sup>
Estonia			14-21
Finland	 <sup>8</sup>		15-21
France	 <sup>9</sup>		13-18 / 19-23
Germany			14-24
Greece	 <sup>10</sup>		13-21 / 22-25
Hungary			14-24
Ireland			10-12/13-15/16-18
Italy			14-21
Kosovo			14-15 / 16-23
Latvia			14-21
Lithuania			14-21
Montenegro			14-15 / 16-23
Netherlands			12-24

<sup>5</sup> Detention in a Young Offenders Institution instead of imprisonment, attendance centre order (a community sanction) can be applied.

<sup>6</sup> In the form of sentencing guidelines that do not refer especially to the age of young adulthood, but to maturity and age in general.

<sup>7</sup> The English Young Offenders Institutions (YOIs) are differentiated to institutions holding 15 to 17-year-olds, 18 to 21-year-olds and institutions holding both age groups. 10 to 12-year old persistent offenders and 12 to 14-year-olds exceptionally can be sent to secure training facilities.

<sup>8</sup> No special juvenile law. The application of suspended sentences (conditional imprisonment) is extended and combined with supervision. Young adult offenders under the age of 21 can be released on parole earlier (after one third or half of the sentence) than adults over 21.

<sup>9</sup> The educational measure of judicial protection (protection judiciaire) can be prolonged beyond the age of 18.

<sup>10</sup> If the offence was committed before the 18th birthday, educational or therapeutic measures can be prolonged until the 21st birthday. Furthermore, according to Pitsela (2010), in practice the judges apply in some cases educational measures to offenders who were 18 or older at the time of the offence.

Country	Special rules for young adults providing the application of specific (juvenile law) sanctions	Special rules for young adults implying sentence mitigation	Age range for youth detention/custody or similar forms of deprivation of liberty
Northern Ireland	✓ <sup>11</sup>	✗	10-16 / 17-21
Poland	✗	✓	13-18 / 19-21
Portugal	✓	✓	12-15 / 16-21
Romania	✗	✓ <sup>12</sup>	14-21
Russia	✓	✗	14-21
Scotland	✓ <sup>13</sup>	✗	16-21
Serbia	✓	✗	14-15 / 16-23
Slovakia	✗	✓	14-18
Slovenia	✓	✗	14-23
Spain	✗	✗	14-21
Sweden	✓ <sup>14</sup>	✓	15-21
Switzerland	✓ <sup>15</sup>	✓ <sup>16</sup>	10-22
Turkey	✗	✗	12-18 / 19-21 <sup>17</sup>
Ukraine	✗	✗	14-22

Source: Dünkel/Pruin 2012, p.33, Dünkel 2013, p.156 f.

<sup>11</sup> Young offenders (17-21) are usually sentenced to the young offenders centre.

<sup>12</sup> The law does not define age as a mitigating factor, but in practice the judges impose more lenient sentences on young adults.

<sup>13</sup> Juveniles and young adults between 16 and 21 years of age can be sentenced to detention in a Young Offenders Institution.

<sup>14</sup> No special juvenile law but special procedures and measures such as the transfer to the Social Services. The imposition of custodial sanctions is particularly restricted (see Dünkel/Stańdo-Kawecka 2011).

<sup>15</sup> Special educational measures can be applied if a further offence was committed after the 18th birthday but criminal proceedings had been instituted beforehand.

<sup>16</sup> The general Criminal Law (Art. 61 Swiss PC) provides for special institutions for 18- to 25-years old offenders.

<sup>17</sup> Special open and closed institutions for young adults.



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The full report is available as a free download from [www.t2a.org.uk](http://www.t2a.org.uk).



is convened and funded by: BARROW CADBURY TRUST



Barrow Cadbury Trust,  
Kean House,  
6 Kean Street,  
London,  
WC2B 4AS.  
Tel: 020 7632 9060  
[www.t2a.org.uk](http://www.t2a.org.uk)  
[www.barrowcadbury.org.uk](http://www.barrowcadbury.org.uk)

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Registered Charity Number: 1115476

ERNST MORITZ ARNDT  
UNIVERSITÄT GREIFSWALD



Wissen  
lockt.  
Seit 1456

*Prof. Dr. Frieder Dünkel & Dr. Ineke Pruin*  
Ernst-Moritz-Arndt-University of Greifswald,  
Department of Criminology Domstr.  
20, D-17487 Greifswald, Germany

E-mail: [duenkel@uni-greifswald.de](mailto:duenkel@uni-greifswald.de)  
<http://jura.uni-greifswald.de/dunkel>  
Tel: ++49-(0)3834-862138