

Comparative Law Analysis of Juvenile Delinquency

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Abstract

The study entitled *Comparative Law Analysis of Juvenile Delinquency* proposes a complex approach, in the sense that the specialist works published so far in this field have addressed this issue in a limited way. Specifically, comparative criminal law studies have focused on comparisons between two states, far from the idea of comparing concepts from a systemic perspective. Thus, the idea of harmonising criminal law is based on comparative law studies, which must consider criminal law in all its forms as found in different legal systems. The objectives of this study are subsumed under the following ideas: identifying and analysing the forms of juvenile delinquency in different countries; identifying and analysing the types of punishment applicable in different countries; identifying the links between the different legal systems and categories of offences, and the punitive systems identified. The research methods used are the comparative method, case law analysis and analysis of legislative texts. In the countries studied, combating juvenile delinquency is a very important issue. In Germany, the number of crimes committed by minors is increasing compared to the level recorded before the Covid-19 pandemic, while in countries where juvenile delinquency is relatively stable, there is a trend towards younger offenders (Denmark) or a change in the type of offences (an increase in sexual assaults in Spain or forms of serious violence in Denmark and the Netherlands).

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1. Introductory notions

‘Juvenile delinquency is associated with inconsistent and/or poor parental discipline, dropping out of school, abuse, children living on the streets, having run away from home or been expelled, children from dysfunctional families who have a potentially criminal entourage.’²

Approximately 15% of all crimes can be classified as juvenile delinquency; in

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² <https://legislatie.just.ro/Public/DetaliiDocumentAfis/298015>, accessed on 20 June 2025. See in this regard: Ajay Ranga Kavita. 2022. „Psychological and Theoretical Perspectives on Juvenile Delinquency”, *Indian Journal of Psychological Science*, Volume 15, Issue 1: 1-8; Terrence T. Allen. 2022. „The historical analysis of childhood and juvenile delinquency: Implications of american social trend and thought”, *Juvenile Family Court Journal*, Volume 73, Issue 3: 33-43, <https://doi.org/10.1111/jfcj.12225>.

some European countries, the percentage can reach up to 22%. However, there are no comparative statistics between Member States³. For this reason, we propose a comparative statistical analysis to highlight the recent trends in juvenile delinquency.

1.1. Statistical Data

In Germany, the latest crime statistics published by the federal police in April 2024 indicate an overall increase in the number of crimes, with a more pronounced increase in offences committed by children (under 14 years of age) and adolescents (respectively +12% and +9.5% in 2023 compared to the previous year)⁴. The number of crimes committed by minors in 2023 was higher than in 2019, before the start of the Covid-19 pandemic, but remained significantly lower than twenty years ago⁵. The main factor cited to explain this increase is the psychological stress caused by the restrictions imposed during the health crisis, which may have a prolonged effect over time⁶.

Denmark saw a 3% reduction in the total number of offences between 2014 and 2023, but the number of offences committed by minors aged between 10 and 17 remained stable at around 12,000⁷. During the same period, the proportion of minors aged between 10 and 17 in the population suspected or accused of a crime also remained stable (between 1.0% and 1.2%), but the age groups involved in the crime have changed, with a decrease in the category of minors aged 16 to 17 and, in parallel, an increase in the number of suspected or accused minors aged 11 to 15. On average, Danish minors are less likely to reoffend than in the past, with a decrease in the number of offences per person to 1.8 in 2023, the lowest level since 2014 and a 25% reduction from 2.4 offences per minor recorded in 2018.

The types of offences attributed to minors have changed over the last ten years: theft, burglary and vandalism are less common, while violence, assault and financial crime have increased. There has also been a recent 15% increase in the category of 'other criminal offences', which includes in particular arson, the sale of stolen goods and insults to the police. Finally, since 2020, the number of minors accused of carrying knives has increased, accompanied by numerous knife crimes among minors in recent years⁸.

Denmark also faces organised crime networks and conflicts between different

³ [https://www.europarl.europa.eu/RegData/presse/pr_post_story/2007/RO/03A-DV-PRESSE_STO\(2007\)03-14\(04228\)EN.pdf](https://www.europarl.europa.eu/RegData/presse/pr_post_story/2007/RO/03A-DV-PRESSE_STO(2007)03-14(04228)EN.pdf), accessed on 20 June 2025.

⁴ <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2024/04/pks2023.html>, accessed on 21 June 2025.

⁵ Deutsches Jugendinstitut, *Zahlen, Daten, Fakten Jugendgewalt*, May 2024, p. 16, available at https://www.dji.de/jugendkriminalitaet/Zahlen-Daten-Fakten-Jugendgewalt_Mai_2024.pdf, accessed on 21 June 2025.

⁶ <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2024/04/pks2023.html>, accessed on 21 June 2025.

⁷ Ministry of Justice Research Office, *Development in child and youth crime 2014–2023*, 2024, p. 3.

⁸ Tobias Bonde Simonsen. 2024. 'Flere sager om børn, der begår personfarlig kriminalitet', <https://nyheder.tv2.dk/krimi/2024-05-23-flere-sager-om-boern-der-begaar-personfarlig-kriminalitet>, accessed on 23 June 2025.

criminal organisations. These networks often rely on minors to minimise the risk of legal reprisals against their adult members. In this context, there are instances of criminal ‘services’ being purchased, with Danish networks sending Swedish minors to commit crimes on Danish territory and vice versa⁹.

In Spain, recent data on juvenile delinquency show varying trends in crime among young people aged 14 to 17. In 2023, the National Statistics Institute (INE) noted an overall decline in crimes committed by minors, with a 7.2% reduction compared to the previous year. However, certain types of offences, such as sexual assaults committed by minors, have seen a worrying increase. In 2022, 424 minors were convicted of this type of crime, representing a significant proportion of serious crimes committed by young people¹⁰. However, this can be attributed, in part, to greater awareness and reporting of these crimes, rather than a real increase in delinquent behaviour¹¹.

According to the scientific research centre of the Ministry of Justice and Security, juvenile delinquency in the Netherlands has fallen considerably since the early 2000s¹². Compared to the record years of 2006–2008, the number of suspects or offenders aged between 18 and 23 fell by more than half between 2000 and 2023. Between 2018 and 2023, the figures stabilised, with slight increases or decreases alternating each year. The Netherlands’ neighbouring countries have also seen a decline in juvenile delinquency over the past two decades, but the Netherlands stands out for its continuous decline in delinquency since 2010¹³.

In 2023, 16,900 minors (aged 12 to 17) and 23,400 young adults (aged 18 to 23) were suspected of committing a crime by the police (i.e. 1.4% and 1.8% of young people in the same age group, respectively) 1.8% of young people in the same age group) and, of these, 4,600 minors and nearly 13,800 young adults (0.4% and 1.2% of these age groups, respectively) were found guilty by the public prosecutor’s office or a court. In the same year, self-reported juvenile delinquency among young people (including cybercrime) was about ten times higher than the number of suspects recorded by the police.

The perception that minors involved in juvenile delinquency are getting younger is not confirmed by national figures, but according to the Ministry of Justice’s research centre, this general finding does not rule out different trends within certain

⁹ Emil Gjerding Nielson. 2024, ‘Danske bander rekrutterer ‘børnesoldater’ i Sverige, bekræfter minister’ (Danish gangs recruit ‘child soldiers’ in Sweden, minister confirms), <https://nyheder.tv2.dk/krimi/2024-08-08-danske-bander-rekrutterer-boernesoldater-i-sverige-bekraefter-minister>, accessed on 23 June 2025.

¹⁰ Instituto Nacional de Estadística, September 2024, available at https://ine.es/dyngs/INEbase/es/operacion.htm?c=Estadistica_C&cid=1254736176795&menu=ultiDatos&idp=1254735573206, accessed on 23 June 2025.

¹¹ <https://www.interior.gob.es/opencms/export/sites/default/galleries/galeria-de-prensa/documentos-y-multimedia/balances-e-informes/2023/Balance-de-Criminalidad-Primer-Trimestre-2023.pdf>, accessed on 23 June 2025.

¹² Wetenschappelijk Onderzoek- en Datacentrum (WODC), Cahier 2024-15, ‘Ontwikkelingen in de jeugdcriminaliteit 2000-2023’, 2024, p. 6, available at <https://repository.wodc.nl/handle/20.500.12832/3384>, accessed on 23 June 2025.

¹³ *Idem*.

groups, certain neighbourhoods or for certain offences.

The severity of juvenile delinquency, measured in terms of the number of minors involved in violent crimes, is declining in the long term compared to the record years of the early 2000s. Since 2018, however, there has been an increase in the number of minors involved in certain forms of serious violence, with a slightly stronger increase among minors than among young adults. The number of minors suspected of committing offences with bladed weapons has been slightly higher since 2019, and the number of minors convicted of certain serious offences, such as violence against persons, increased between 2017 and 2023.

In Romania, among the individuals who have been definitively acquitted, the number of minors has increased by 14.3% compared to 2023, while the number of those in preventive detention has decreased by 42.3% compared to 2023.¹⁴ Of the total number of individuals brought to trial, 3,208 are minors (5.1%).¹⁵ The statistical evolution of the number of minor defendants brought to trial (through indictments and plea agreements) between 2015 and 2024 is encouraging, as their number has decreased from 6% in 2015 to 5.1% in 2024. On the oth, the number of juvenile defendants brought to trial in pre-trial detention is increasing, rising from 12.6% in 2015 to 15.4% in 2024.¹⁶

1.2. United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)¹⁷

Juvenile delinquency has been an extremely important topic for the international legal community, which has always sought to discourage such deviant behaviour, especially among young people. Despite the combined efforts of all states, the mission to eradicate this phenomenon is doomed to failure, with multiple factors contributing to this¹⁸. In such a context, the most readily available means have always been those aimed at shaping and implementing rules/principles to guide the criminal policies of states. One of the documents that has formed the cornerstone of the criminal policy on juvenile delinquency comes from the United Nations and is called the Guidelines for the Prevention of Juvenile Delinquency¹⁹.

1. The prevention of juvenile delinquency is an essential element of crime prevention. By participating in legal and socially useful activities and by adopting a humanistic perspective on society and life, young people can acquire a non-criminogenic mentality.

2. For the prevention of juvenile delinquency to be effective, society as a whole

¹⁴ Report on the activity carried out by the Public Ministry in 2024, available at https://mpublic.ro/sites/default/files/PDF/raport_activitate_2024.pdf, accessed on 20 June 2025.

¹⁵ *Idem*.

¹⁶ *Idem*.

¹⁷ <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>, accessed on 25 June 2026.

¹⁸ For details, see Boro Merdovic & Biljana Jovanović. 2024. „Scope, nature and causes of juvenile delinquency”. *Kultura Polisa*. vol. 21, no. 3: 5–121, <https://doi.org/10.51738/kpolisa2024.21.3r.95mj>.

¹⁹ The document is also known as the Riyadh Principles.

must ensure the harmonious development of adolescents, respecting their personality and promote the development of young people from early childhood.

3. For the purpose of interpreting these Guidelines, a child-centred approach should be adopted. Young people should play an active role as partners in society and not be regarded merely as objects of socialisation or control measures.

4. In order to implement these Guidelines, any prevention programme should, in accordance with national legal systems, focus on the well-being of young people from childhood onwards.

5. The need for and importance of adopting new crime prevention policies should be recognised, as should the systematic study and development of measures to avoid criminalising and punishing behaviour that does not seriously harm the child's development or affect other people.

6. Community-based juvenile crime prevention services and programmes should be established, particularly in cases where traditional services have not yet been set up, and traditional social control services should only be used as a last resort.

1.3. Legislative Provisions at European Union Level

The increase in criminal activity involving minors is a constant concern for all decision-making bodies, including legislative bodies in the European Union, both in terms of the causes leading to the scale of the phenomenon and the negative effects it produces.²⁰ The Council of Europe's objective has been to define common policies that encourage young people to be citizens first and foremost.²¹

To this end, documents containing recommendations for Member States have been identified at the European Union level, such as the Recommendation of the Committee of Ministers to Member States on European standards for juvenile offenders subject to sanctions or measures [CM/Rec (2008) 11]²² or the Recommendation of the Committee of Ministers to member states on new approaches to dealing with juvenile delinquency and the role of juvenile justice [Rec (2003) 20]²³. Essentially, the European provisions focused on the following guidelines: decisions based on the best interests of the child; the age of criminal responsibility must be recognised internationally as acceptable; the reaffirmed priority of the principles of social reintegration, education and social prevention; detailed rules for education and educational activities; an expanded definition of deprivation of liberty; deprivation of liberty as a 'last resort'.²⁴

²⁰ For details on the negative effects, see Pragya Rai, Shailja Dubey. 2023. „Effects of Juvenile Delinquency on Society-A Social Work Study”. BSSS Journal of Social Work, Vol. XV, Issue-I: 55 - 67, <https://doi.org/10.51767/jsw1506>.

²¹ Finkelstein-Rossi Jacqueline. 2007. « Face à la délinquance juvénile, les dispositifs européens », *Le Journal des psychologues*, n° 245, p. 53-57. DOI: 10.3917/jdp.245.0053.

²² Available at <https://www.coe.int/fr/web/prison/conventions-recommendations>, accessed on 20 June 2025.

²³ *Idem*.

²⁴ For a detailed presentation, see Pierre Ferreri. 2009. 'Conseil de l'Europe. De nouvelles règles européennes pour les mineurs délinquants' in *Les Cahiers Dynamiques*, no. 43, April, pp. 35–39.

2. Comparative Analysis of the Legal Framework Applicable to Juvenile Delinquency

As a general principle, all European legislation is based on a system of age brackets, with the difference being that the age limits are not identical.²⁵

We propose validation and/or invalidation of the analysis of the legislation of countries such as Germany, the Netherlands, Spain and Denmark, in comparison with Romanian national legislation. These countries were chosen because, first of all, they are all civil law countries (and comparisons should generally be made between similar systems)²⁶, and secondly, the choice was based on elements of originality in the spectrum of comparative criminal law, aiming to move away from French criminal law, which is the foundation of the civil law system, and to move closer to countries whose legislation has not been mirrored in parallel with national legislation in this formula.

2.1. Germany

In Germany, juvenile criminal law is governed by the 1953 Juvenile Court Act (Jugendgerichtsgesetz, JGG)²⁷, which stems from the 1923 Act drafted by Justice Minister Gustav Radbruch during the Weimar Republic²⁸.

Article 19 of the Criminal Code²⁹ sets the age of criminal responsibility at 14. Even if they are 14 or older, minors are only criminally responsible 'if, at the time of the offence, they are sufficiently mature, in view of their moral and intellectual development, to understand the unlawfulness of their actions and to act accordingly'³⁰. Adolescents (Jugendliche) aged between 14 and 17 at the time of the offence, as well as young adults (Heranwachsende) aged between 18 and 21, fall within the jurisdiction of specialised courts³¹.

Juvenile court judges (Jugendgerichte) must, in principle, have educational qualifications and experience in working with young people³², as must prosecutors. The youth court assistance service (Jugendgerichtshilfe) is also involved in judicial proceedings³³. This function is generally performed by social workers or educators from

²⁵ Jean Pradel. 2016. *Droit pénal comparé*, 4th edition, Ed. Dalloz, Paris, p. 16.

²⁶ For details, see Andra Ifrimieci. 2024. *Drept comparat. Sisteme juridice contemporane*, 3rd edition, Ed. Universul Juridic, Bucharest, 2024, p. 70 et seq.

²⁷ <https://www.gesetze-im-internet.de/jgg/BJNR007510953.html>, accessed on 23 June 2025.

²⁸ <https://hlz.hessen.de/themen/detailansicht/16-februar-1923-100-jahrestag-der-einfuehrung-des-gesonderten-jugendstrafrechts-durch-gustav-radbruch>, accessed on 23 June 2025.

²⁹ https://www.gesetze-im-internet.de/stgb/_19.html#Seitenanfang, accessed on 23 June 2025.

³⁰ JGG, § 3, available at <https://www.gesetze-im-internet.de/jgg/BJNR007510953.html>, accessed on 23 June 2025.

³¹ <https://www.uni-potsdam.de/de/rechtskunde-online/rechtsgebiete/strafrecht/jugendstrafrecht>, accessed on 23 June 2025.

³² JGG, § 37, available at <https://www.gesetze-im-internet.de/jgg/BJNR007510953.html>, accessed on 23 June 2025.

³³ JGG, § 38, available at <https://www.gesetze-im-internet.de/jgg/BJNR007510953.html>, accessed on 23 June 2025.

the competent municipal youth welfare office (Jugendamt) (equivalent to the French child welfare services).

A special feature of German juvenile criminal law is the possibility for the juvenile prosecutor to request the judge to rule in accordance with the simplified procedure for minor offences committed by a child or adolescent (Articles 75–78 JGG). Offences are considered minor when there is reason to believe that the judge will not impose a sentence on the minor.

Under this procedure, the juvenile judge may, to a certain extent, derogate from the rules of procedure normally applicable in order to simplify, speed up and adopt the procedure to minors (judge's decision at the end of oral proceedings, conduct of the hearing without the mandatory presence of the prosecutor, in particular). This option is reserved for minors and is not available to young adults aged between 18 and 21. However, as in the case of adults, they may be tried, if necessary, under an accelerated procedure.

Juvenile courts make extensive use of these simplified forms of proceedings. In 2020, public prosecutors in Bavaria closed 17,471 cases under the simplified procedure (minors) or the accelerated procedure (young adults), and juvenile courts closed a further 4,260 cases. In 1,331 cases, a decision by the judge was requested under the simplified procedure³⁴.

2.2. Denmark

Article 15 of the Danish Criminal Code³⁵ sets the age of criminal responsibility at 15. Below this age, minors are considered children and cannot be subject to criminal sanctions, regardless of the seriousness of the acts committed. However, they may be referred to the Youth Crime Council (Ungdomskriminalitetsnævnet).

There is no specialised court for minors in Denmark. Minors over the age of 15 who are suspected of committing offences are tried in accordance with the provisions of the general Criminal Code and are arrested by the normal police, prosecution and ordinary courts.

However, special procedural provisions apply in the case of juvenile offenders (in particular, the participation of a representative of the municipal social services in the interrogation of a suspected minor and notification of the social services and parents)³⁶. In addition, in most cases, prison sentences are replaced by detention in closed youth centres, and minors who have committed offences punishable by life imprisonment cannot be sentenced to such penalties³⁷.

The Juvenile Crime Council (CDJ, Ungdomskriminalitetsnævnet) was

³⁴https://www.justiz.bayern.de/media/pdf/broschueren/jugendkriminalit%C3%A4t_und_jugendstrafrecht_stand_august_2022.pdf, accessed on 23 June 2025.

³⁵ <https://www.retsinformation.dk/eli/lt/2021/1851>, accessed on 23 June 2025.

³⁶ https://e-justice.europa.eu/35998/EN/rights_of_minors_in_court_proceedings?DENMARK&member=1, accessed on 23 June 2025.

³⁷ <https://www.retsinformation.dk/eli/lt/2021/1851>, Article 33, accessed on 23 June 2025.

established in 2019 by the Juvenile Crime Act³⁸ to strengthen the coherence of efforts to combat juvenile crime³⁹. This independent administrative authority has the task of developing preventive, specific and individual measures for children and young people aged between 10 and 17 who have committed or are at risk of committing offences. Children aged between 10 and 14 are referred to the CDJ directly by the police, while young people aged between 15 and 17 are referred to the commission by the courts, usually after being given a suspended sentence.

There is a permanent CDJ in every police district in the country. Each council is composed of a judge who chairs the meeting, a municipal official and a member of the police services⁴⁰.

Measures are decided on the basis of an assessment of the situation of the minors and their families, taking into account their well-being and resources. The minor's opinion must be taken into account in a manner appropriate to their age and maturity.

The Youth Correctional Service (Ungekriminalforsorgen) ensures that the measures decided by the CDJ are implemented.

2.3. Spain

In Spain, juvenile justice is based on legislation that guarantees the legal, social and moral protection of children and adolescents. The texts in force aim to protect their fundamental rights, prevent violence and promote their reintegration, giving priority to education and responsibility over repression.

Article 39 of the Constitution⁴¹ and Organic Law No 1/1996 of 15 January 1996⁴² requires public authorities to protect families and children, guaranteeing their social, economic and legal security, ensuring the best interests of the child, their protection against abuse and their right to be heard in proceedings affecting them, in accordance with international agreements.

The criminal liability of minors is mainly regulated by Organic Law No. 5/2000 of 12 January 2000⁴³. The text applies to young people aged between 14 and 18 for acts classified as crimes or offences under the Criminal Code or special criminal laws. The minors in question enjoy all the rights recognised by the Constitution and international treaties signed by Spain.

The text is based on several fundamental principles, focused mainly on the social and educational reintegration of minors, rather than simply punishing them. The aforementioned organic law:

- sets the minimum age of criminal responsibility at 14. Minors under the age

³⁸ <https://www.retsinformation.dk/eli/lt/2018/1705>, accessed on 23 June 2025.

³⁹ <https://www.retsinformation.dk/eli/ft/20181XX00168>, accessed on 23 June 2025.

⁴⁰ <https://www.domstol.dk/ungdomskriminalitetsnaevnet/om-ungdomskriminalitetsnaevnet/>, accessed on 23 June 2025.

⁴¹ [https://www.boe.es/eli/es/c/1978/12/27/\(1\)/con](https://www.boe.es/eli/es/c/1978/12/27/(1)/con), accessed on 23 June 2025.

⁴² <https://www.boe.es/buscar/act.php?id=BOE-A-1996-1069>, accessed on 23 June 2025.

⁴³ <https://www.boe.es/buscar/act.php?id=BOE-A-2000-641>, accessed on 23 June 2025.

of 14 are not criminally responsible and are dealt with through protective measures within the family or social environment. Between the ages of 14 and 18, young people can be tried for offences under a special jurisdiction for minors;

- promotes the re-education of young offenders (reeducación de los menores de edad infractores). The aim is not to punish them, but to help them reintegrate into society. The sanctions applied to minors are educational in nature, taking into account the personal, family and social circumstances of the young person;

- establishes juvenile courts with specific powers to deal with cases involving young offenders. These courts have a technical team of psychologists, social workers and educators who assess each minor's situation in order to propose appropriate measures;

- provides for different levels and types of sanctions, ranging from educational measures in the open environment, such as community service or training, to placement in specialised centres for more serious offences. Imprisonment is considered a measure of last resort, used only in the most serious cases;

- guarantees that minors enjoy all procedural safeguards and constitutional rights, while ensuring their best interests. They have the right to defence, to information about their rights and to be accompanied by their parents or legal representatives throughout the judicial proceedings;

- assigns the prosecution a key role in proceedings involving minors, supervising the legality of the measures taken and ensuring the protection of their rights;

- aims to protect victims, especially minors, and provides for measures to minimise the impact of judicial proceedings on them.

The Organic Law replaces the criminal and procedural provisions of ordinary law for offences involving minors.

2.4. The Netherlands

In the Netherlands, juvenile criminal law has its origins in a law on children's criminal law that came into force in 1905⁴⁴. It is currently governed by Title VIII A, Book I, of the General Criminal Code, which contains 'specific provisions for adolescents and young adults'⁴⁵ and by certain specific provisions in the Code of Criminal Procedure (CCP)⁴⁶. This legal framework is supplemented by the 2001 law on youth detention centres⁴⁷. The implementing texts emphasise the 'educational nature' of juvenile criminal law, with the overall objective of preventing reoffending⁴⁸.

Article 486 of the Code of Criminal Procedure sets the age of criminal

⁴⁴ https://www.oijj.org/sites/default/files/archivospaginas/baaf_netherlands1.pdf, accessed on 23 June 2025.

⁴⁵ https://wetten.overheid.nl/BWBR0001854/2024-10-01/#BoekEerste_TiteldeelVIII A, accessed on 23 June 2025.

⁴⁶ https://wetten.overheid.nl/BWBR0001903/2024-10-01/#BoekVierde_TiteldeelII, accessed on 23 June 2025.

⁴⁷ <https://wetten.overheid.nl/BWBR0011756/2023-01-01>, accessed on 23 June 2025.

⁴⁸ <https://wetten.overheid.nl/BWBR0044737/2021-02-01>, accessed on 23 June 2025.

responsibility at 12 years ('No one may be prosecuted for an offence committed before the age of 12'). However, offences committed by children under the age of 12 are recorded by the police and systematically reported to the domestic violence and child abuse counselling and reporting centre (Veilig Thuis). Police investigations and the use of limited coercive measures are also possible under the age of 12, including detention and body and clothing searches, arrest and questioning by the police for a maximum of 6 hours in the presence of a parent or guardian (Article 487 of the Code of Criminal Procedure).

Minors over the age of 12 and under the age of 18 at the time of the offence are, in principle, subject to juvenile criminal law and are prosecuted by a juvenile judge or specialised juvenile courts (Kinderrechter, Article 495 of the CCP).

However, juvenile justice in the Netherlands is characterised by a flexible and pragmatic approach. The concept of juvenile criminal law (adolescentenstrafrecht), introduced in 2014, has expanded the possibilities for flexible application of juvenile criminal law and adult criminal law in the case of young people aged between 16 and 23, in order to better take into account their level of development⁴⁹. After consulting the public prosecutor, the judge may decide:

- to apply adult criminal law to young people aged 16 and 17 at the time of the offence, depending on the following factors: the seriousness of the offence, the personality of the defendant and the circumstances of the offence (Article 77b of the Criminal Code). This option is rarely used and applies to three main cases: (i) particularly shocking and violent offences, (ii) the calculated attitude of the offender and the 'adult nature' of the offences committed, and (iii) the impossibility of improving the minor's behaviour through educational measures specific to juvenile justice⁵⁰. For example, 'This may concern a 17-year-old suspect who has committed a very serious offence and who has already had numerous problems with the law [and for whom] numerous youth protection measures have already been taken, without achieving the desired results'⁵¹;

- conversely, to apply juvenile criminal law to young adults aged between 18 and 23 at the time of the offence. The judge takes into account the personality of the suspect and/or the special circumstances of the offence (Article 77c of the Criminal Code). In most cases, the trigger for applying juvenile criminal law to young adults seems to be the young offender's delayed development or lack of maturity. Other reasons may also be taken into account, such as mental health problems or the presence of a mild intellectual disability⁵².

⁴⁹ <https://www.wodc.nl/actueel/nieuws/2024/04/22/toepassing-van-adolescentenstrafrecht-bij-16--tot-23-jarigen>, accessed on 23 June 2025.

⁵⁰ WODC, Cahier 2024-5, De toepassing van het adolescentenstrafrecht bij 16- tot 23-jarigen, 2024, p. 6, available at <https://repository.wodc.nl/bitstream/handle/20.500.12832/3356/Cahier-2024-5-samenvatting.pdf?sequence=3&isAllowed=y>, accessed on 23 June 2025.

⁵¹ <https://www.rechtspraak.nl/Organisatie-en-contact/Rechtsgebieden/Strafrecht/paginas/adolescentenstrafrecht.aspx#4198b987-2280-4992-bde5-c589a0d5a758348b6e94-a215-4155-8e24-7d7bb3c772833>, accessed on 23 June 2025.

⁵² WODC, Cahier 2024-5, De toepassing van het adolescentenstrafrecht bij 16- tot 23-jarigen, 2024, *op. cit.*, p. 6.

In addition, Article 495 of the CCP provides the possibility for the juvenile judge to deal simultaneously with offences committed by a person when they were a minor and then when they were an adult in the same criminal case. In this case, adult criminal law applies in principle, but the judge may decide to apply juvenile criminal law (Article 495 (4) and (5) of the CCP).

In addition to the juvenile courts and prosecutors, two entities play an important role in juvenile delinquency in the Netherlands:

- the Child Protection Board (Raad voor de Kinderbescherming). This is an agency of the Ministry of Justice and Security responsible for defending children's rights in child protection and criminal proceedings. When a minor over the age of 12 is suspected of committing a serious offence and the public prosecutor initiates legal proceedings, the Child Protection Board is responsible for investigating the minor and his or her environment and gathering information from the school and social workers in order to advise the public prosecutor and the judge on the most appropriate measures or sanctions⁵³. Acting in the best interests of the child, it aims to 'create a safety net around the child' and focuses on 'young people who are truly at risk'⁵⁴. Its opinions are not binding on the judge, but the judge must justify how the opinion was taken into account;

- and municipalities. Since the decentralisation decided by the 2015 Youth Act⁵⁵, municipal authorities have been responsible for youth assistance and child protection services, as well as their funding. The mayor has a particular responsibility for dealing with young people who cause problems and for cooperating with the police, the public prosecutor's office and the Youth Protection Board⁵⁶.

Finally, youth probation services (Jeugdreclasseringen), accredited by the municipalities, are responsible for supervising delinquent adolescents and young adults during the execution of their sentences⁵⁷.

2.5. Romania

In Romania, the criminal liability of minors is regulated in Title V of the Criminal Code, entitled '*Minors*'.

According to Article 113 of the Criminal Code, minors under the age of 14 are not criminally liable, and minors between the ages of 14 and 16 are only criminally liable if it is proven that they committed the act with discernment. At the same time, minors who have reached the age of 16 are criminally liable under the law.

According to the provisions of Article 507 of the Code of Criminal Procedure, cases in which the defendant is a minor are tried according to the usual rules of jurisdiction by judges specifically appointed in accordance with the law.

⁵³ <https://www.kinderbescherming.nl/over-ons>, accessed on 23 June 2025.

⁵⁴ <https://www.kinderbescherming.nl/themas/jeugdstrafrecht>, accessed on 23 June 2025.

⁵⁵ <https://wetten.overheid.nl/BWBR0034925/2024-01-01>, accessed on 23 June 2025.

⁵⁶ <https://wegwijzerjeugdenveiligheid.nl/onderwerpen/jeugdcriminaliteit/>, accessed on 23 June 2025.

⁵⁷ <https://www.rijksoverheid.nl/onderwerpen/straffen-en-maatregelen/straffen-en-maatregelen-voor-jongeren>, accessed on 23 June 2025.

3. Conclusions

Following the comparative analysis, the conclusions are as follows:

- the Netherlands has set the lowest age limit for criminal liability at 12 years of age;
- there are multiple factors underlying the increase in crime (the pandemic context between 2020 and 2022, which led to an increase in aggression among young people; the expansion of new technologies, which created a connection between increased aggression, the promotion of inappropriate role models, and a lack of parental control.);
- in all the countries analysed, there is a clear need to regulate a distinct branch of criminal law, namely juvenile criminal law⁵⁸, as exists in an incipient form in the Netherlands;
- in all the countries analysed, preventive measures are used as pillars of prevention in the recidivism of juvenile offenders;
- the types of offences most often committed by minors are mainly those against the person, as well as minor offences against property;
- in all the countries analysed, the emphasis is on education and re-education of juvenile offenders.

This research opens up the possibility of a new line of research, consisting of the formulation of the following working hypotheses:

- a) the measures taken by each state must give priority to the mental health of juvenile offenders as part of the concept of well-being;
- b) in the field of juvenile delinquency, can the phenomenon known as cross-fertilisation function optimally in court decisions?⁵⁹

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⁵⁸ Irene Yáñez García-Bernalt. 2024. „Juvenile delinquency and criminal justice: a historical-legal analysis”, *Revista General De Derecho Penal* N. 42, November, 427451.

⁵⁹ For details on the cross-fertilisation method, see Andra Iftimiei. 2023. *New trends in comparative law: cross-fertilisation* in Federica Cristani, Cristina Elena Popa Tache (eds.), *Tempore Mutationis in International and Comparative Law*, ADJURIS – International Academic Publisher, August 2023, pp. 200–208, <https://adjuris.ro/books/tmic/Tempore%20Mutationis%20in%20International%20and%20Comparative%20Law.pdf>.

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