

ministries structure. carry out law enforcement and regulatory functions), and take into account this experience in Ukraine.

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OVERVIEW OF CRIMINAL LIABILITY OF MINORS ACROSS EUROPE

Comparative research, especially in the field of youth justice, is fraught with difficulties. The very definition of a child, the classification of crime or penal custody for children and the extent to which aspects of youth justice are recorded, vary enormously throughout Europe [2, p. 295]. For instance, the terms "juvenile" and "young person" may in some places refer to a person under 18 and in others simply to a person who is treated differently by the criminal justice system from an adult. Most European systems have distinct ways of dealing young people under the age of 21 in conflict with the law. In some European countries, those deprived of their liberty will be detained in "youth custody" until their mid 20s and distinct procedures will be applied to young people over the age of 18 during the sentencing process.

Further, the age of criminal responsibility appears to have different meanings across Europe. The official age of criminal responsibility may not be the earliest age at which a child can be involved with the justice system due to being in conflict with the law [3]. For instance, in England and Wales, it is simply not possible to come before the criminal courts or to be arrested under the age of criminal responsibility, which is at the extremely low age of ten. However, while the age of criminal responsibility in Belgium is set at the much higher age of 18 (or 16 for certain serious crimes) much younger children can be dealt with through the criminal system and deprived of their liberty, even though they are not being given a

criminal sanction. Similarly in France, where the age of responsibility is 13, children as young as ten can appear before a judge who can impose community or education orders. Provided these variations are borne in mind, it remains useful to explore the wide ranging differences of approach towards juvenile justice across Europe. Further, it is also possible to identify developing trends that appear to reflect the global approach to youth crime and punishment.

Commentators have suggested that youth crime has become an increasingly political issue, especially in Anglophone countries such as UK and US, and that for this reason it has been especially difficult to develop international standards that will be complied with universally. It is indicative of the difficulties of setting standards in this area that the US is the only country alongside Somalia in the world not to have signed the most important international treaty in this area, the United Nations' Convention of the Rights of the Child (UNCRC). Further, many countries have placed reservations on some of the key issues on youth justice. Despite the prevalence of non compliance, juvenile justice is the subject of international guidance that is extremely comprehensive and detailed.

As can be seen from the comparative ages of criminal responsibility across Europe, the countries that make up the UK have the lowest ages of responsibility. The changes to the age of criminal responsibility in England over the last 50 years are symptomatic of the volatile nature of penal policy in the field of juvenile justice. The age was increased from 7 to 10 in 1969 alongside a raft of measures designed to create a welfare based criminal justice system.

While these measures were famously implemented in Scotland (where, ironically, the age of criminal responsibility remains at the age of 8) with the creation of children's hearings system able to dispense a range of educational and welfare based measures instead of penal penalties, the reforms never really took off in England and Wales. Even those "welfare" based initiatives that have been successfully introduced have traditionally in England only served to expand the range of criminal disposals available to the Courts [1, p. 35]. Further, in 1998, the "New Labour" government, developing

the trend set by the Conservative Prime Minister Margaret Thatcher, abolished the presumption of "doli incapax" for 10 to 14 year olds. This ensured that there was a presumption that children between these ages were not capable of committing an action that they knew to be "seriously wrong" unless the prosecution could prove otherwise. The abolition of this presumption in England has been considered as symptomatic of a rigid and inflexible attitude to penal policy for children in recent years. Therefore, in the cases of England and Scotland it can be said that the age of criminal responsibility is not an accurate indication of the severity of the regime.

However, a brief survey of the ages of criminal responsibility and the percentage of children that make up the prison population in European countries does appear to suggest that the lower the age of criminal responsibility the larger the juvenile prison population.

Thus, those countries with the lowest ages of criminal responsibility between 8 and 12 (England and Wales, Scotland, Turkey, Northern Ireland and the Netherlands), fall within the top six highest juvenile prison populations – with the notable exception of the Netherlands which has only recently developed harsher penal policies.

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