



**EUROPEAN COMMISSION**  
CONSUMERS, HEALTH, AGRICULTURE AND FOOD EXECUTIVE AGENCY

Health Unit



**EPPIC**

**Exchanging prevention practices on polydrug use among youth in criminal justice systems**

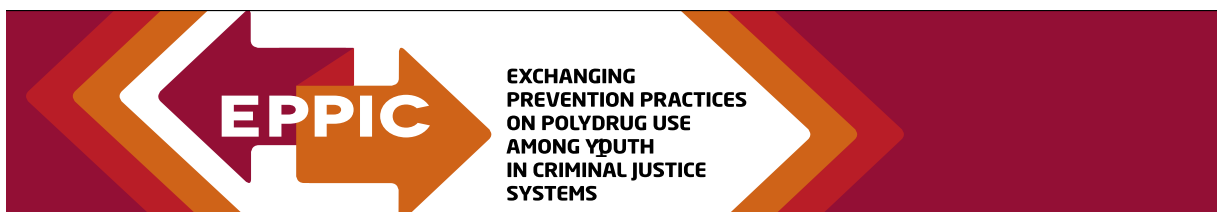
**WP4**

**National Report Germany**

**June 2017**

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## **1. Introduction**

This report aims at providing an overview of what is known about a) young people (aged 15 to 24) in touch with the criminal justice system (CJS) in Germany and b) the existing systems and intervention programs/projects designed to prevent or minimize drug use and drug related harm among the same group of people.

The methods used to gather and compile information for the report included a literature review, examination of relevant policy documents, gathering available statistics on young people in the criminal justice system and their drug use, a scoping survey to identify initiatives and stakeholders as well as key informant interviews.

The report consists of (1) an overview of the wider policy context as well as (2) the legal context as a whole and juvenile justice legislation and the characteristics of the young prison population on particular. This is followed by a (3) brief account of drug use among young people in Germany in general and among people in touch with the CJS specifically. Lastly, the report considers (4) prevention and intervention approaches to minimize drug use among young people in touch with the CJS.

## **2. The German policy context**

### **2.1 Drug policy and the drug support system in Germany**

German drug policy is split into measures with regard to licit (esp. alcohol and tobacco) and illicit drugs. Although health damages (mortality and morbidity) related to licit drugs are high (e.g. 110,000 tobacco-related deaths annually), public discourse mainly focuses on the consequences of illicit drug use. The national drug strategy related to illicit drugs is based on four pillars: (1) prevention, (2) counselling and treatment, (3) harm reduction and (4) repression (Drogenbeauftragte der Bundesregierung 2012: 8). While this strategy is praised as a new hybrid by government officials, the fourth pillar still clearly dominates German drug policy (Bernard 2013: 69-70; Schildower Kreis 2013). This is not only reflected in the amount of funds directed to the fourth pillar (Bernard 2013: 69-70; EMCDDA 2017: 3), but also in the rising numbers of drug related offences while drug use does not increase to the same scale (Cousto/Stöver 2017; Schildower Kreis 2013). In 2016, the highest number of drug related offences ever detected by the police has been reached (in total: 302.594). This number is the result of a steadily increasing trend to be noticed particularly in the last five years. In 1993, a few years after Germany's re-unification, when for the first time a comprehensive crime statistics has been elaborated, the number of drug related offences was 122.240. This indicates an increase of 147.5 percent compared to 2016. Cannabis-related delinquencies increased even higher (threefold) from 50.277 cases in 1993 up to 182.399 in 2016, which means an increase of 262.8 percent. Out of all registered cases in 2016 more than half were related to cannabis (182.399). 80 percent of these registered cannabis-related cases were so-called consumption related cases, which means that amounts for personal use were the

basis of police inquiry. More than 40% of all registered delinquents were below the age of 21 (Cousto/Stöver 2017: 50).

In general, drug policy in Germany is implemented on a federal and a Federal States (“Länder”) level. On the federal level, the Ministry of Health is responsible for drug policy, represented by a drug commissioner who is set up by the government. Principal laws and basic regulations are being issued on this level. These laws and regulations (esp. narcotics law – Betäubungsmittelgesetz (BtmG), medicinal products act - Arzneimittelgesetz (AMG), youth protection law – Jugendschutzgesetz) constitute the legal framework of German drug policy. Beyond this principal legal framework, drug services and projects related to prevention and/or harm reduction are mainly being offered on the Federal States level, funded either by the Federal States themselves, the municipalities or health and pension insurances.

In Germany, the support system for drug- and addiction-related problems consists of different institutions. The majority of institutions supporting individuals with drug-related problems and offering prevention and/or harm reduction projects belongs to the so-called addiction aid (Suchthilfe). Institutions of this kind are funded by the municipalities or through private donations (Kommunen).

Mostly, support is provided by independent welfare institutions which report to local or federal state authorities and have to stick to the directives and regulations set by these authorities. A broad network of these institutions exists mostly in the form of drop-in counselling facilities. Some in-patient projects exist, which provide e.g. accommodation and a pedagogic support system for long-term heavy drug users. The professional background among the staff varies ranging from social welfare workers, education specialists, psychologists, psychotherapists and nurses to physicians. As a result of this non-centralized set-up, a multitude of different approaches and concepts exists on how to deliver support for drug users. On the one hand, this approach enables municipalities to shape their support service alongside specific local needs (e.g. with regard to their urban or rural backgrounds and related specific drug use patterns), yet, a lot of networking among different institutions is necessary to provide for an efficient exchange between institutions and adjacent authorities and organizations (e.g. legal authorities, police). Moreover, this approach also means that especially the scale and content of prevention and harm reduction projects aiming at young people vary considerably across the different Federal States due to different political priorities.

Individuals with drug-related problems may also approach the medical system for help. Costs for these services are covered by either private or public health insurances. For out-patient support, a broad network of general practitioners and pediatricians exists, which either provide help themselves or refer patients to specialists such as psychiatrists, child and adolescent psychiatrists and psychotherapists. Patients can also choose to consult these specialists directly if they wish to. Some larger clinics also provide out-patient walk-in clinics for patients with mental health problems. Yet, only a few are specialized in treatment of adolescent and young adult drug abuse. For patients with a bigger need for help, day-clinics exist, with a psychiatric or child and adolescent psychiatric background. There too, mental

health problems can be treated, however, again, specialized services to tackle substance abuse in concordance with other mental health problems are scarce and most often, abstinence from drugs is a prerequisite for admission. In-patient services for adolescent and young adult

drug users are provided by psychiatric and child and adolescent psychiatric clinics. One of their main foci is to provide withdrawal treatment under medical supervision. Another task is to initiate a psychotherapeutic treatment after detoxification. Again, only few in-patient clinics exist with a specialized focus on drug using adolescents on own wards and concepts to combine withdrawal with subsequent psychotherapeutic treatment. Within the medical system, medical rehabilitation clinics stand out as a specialized agent of health care provision for patients with chronic diseases, among which drug abuse and addiction are also subsumed. Their main focus is to ensure the return of the chronically ill into the labour force. They are funded mainly through social pension insurance providers, less often by health insurances. Although adolescents may also be treated within the medical rehabilitation system for the chronically ill, specialized care regarding drug abuse or addiction exists only for individuals older than 17 years.

## **2.2 Health promotion and harm reduction in prisons**

In principle, prisoners in Germany have the right to the highest attainable standard of physical and mental health comparable to that in the outside community. One main difference to the outside community, however, is the lack of free choice of a medical practitioner in penal institutions. In general, medical practitioners in German prisons are full-time employed. Yet, it is difficult to find appropriate personnel due to the working conditions and a lack of career opportunities and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regularly reports several shortcomings regarding the provision of medical care in prisons (e. g. CPT 2012, 2014). Apart from the medical service in a strict sense, prisons usually offer different kinds of counselling and care services. Psychologists are asked for expertise as regards various types of offences and offer group or single therapies as well as psychological counselling. The social service of prisons includes social workers, social pedagogues, debt as well drug counsellors. Teachers are only working in some prisons, especially in prisons for juveniles and in educational facilities of prisons. Tasks that cannot sufficiently be performed by prison personnel can be assigned to external services. Especially drug and HIV/AIDS services offer counselling and care services for prisoners (Taylor-Schultz 2007; Pohl 2013).

Similar to the provision of drug services for the general population, however, the Federal States are also responsible for the regulation of prisons within their territories (also see section 3.2.2). As a consequence of different regulations, scope and scale of health care, social as well as drug services provision in prisons are very heterogeneous and differ significantly. With a view on juvenile prisons, for example, nearly all closed juvenile prisons provide some form of drug counselling (26 out of 28), but only 21 percent also provide drug treatment (Dünkel/Geng 2013: 639). Moreover, the ration between psychological and social

support staff and inmates varies significantly across youth prisons in different federal states (ibid: 631-637). Other examples for this diversified approach are prison-based needle and syringe programs (PNSP) and opioid substitution treatment (OST). Only one prison-based needle and syringe program (PNSP) does exist in a women's prison in Berlin and while OST is available in most Federal States, some Federal States (e. g. Bavaria) regularly discontinue OST once people are incarcerated or only provide OST as a detoxification method, and not as a maintenance therapy (Stöver/Michels 2010). In general, one could claim that German prisons heavily (yet chronically fruitless) focus on reducing the supply of drugs instead of developing comprehensive strategies regarding demand reduction (Neubacher et al. 2017: 119-121).

### 3. The legal context

#### 3.1 General information on the criminal justice system and criminal liability

The German criminal justice system differentiates between juvenile and general criminal law, providing for diverse measures and sanctions for adult, young adult and juvenile offenders. In principal, the general law as outlined in the "German Penal Law" (*Strafgesetzbuch*; StGB) and the Code of Criminal Procedure (*Strafprozessordnung*; StPO) also applies for juveniles and young adults. The Juvenile Justice Law (*Jugendgerichtsgesetz*; JGG), however, specifies a range of particularities for young offenders.<sup>1</sup>

If the Juvenile Justice Law or the general Penal Law has to be applied, depends on the age of the offender by the time of the offence. In this vein, the German criminal justice system differentiates between children below the age of 14, who are in no case criminally liable (§19 StGB)<sup>2</sup>, juveniles between 14 and 17 years of age and young adults defined as persons between 18 and below 21 years of age. Juvenile Justice Law is always applicable to juveniles (as defined above). Whereas in the case of juveniles it always has to be verified if a person is criminally liable at all (§3 JGG), young adults (as defined above) are criminally liable in any case (Laubenthal/Nestler 2010: 476). If the Juvenile Justice Law or the Penal Law is applicable to the young adult in question, is, therefore, decided individually depending on the type of offence (e. g. if the crime committed is a "typical" juvenile offence) and the maturity of the offender (ibid.: 476-477). If an offender by the time of offence was 21 years old or older, Juvenile Justice Law is not applicable anymore and Penal Law automatically applies.

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<sup>1</sup> The Juvenile Justice Act, literally translated as Juvenile Courts Act, entered into force in 1923. In parallel, a specific welfare system for young persons has been established, legally based on the Juvenile Welfare Act (1922).

<sup>2</sup> In these cases, neither the Juvenile Justice Law nor the Penal Law applies. Instead, action can be taken according to the "Children's and Youth Welfare Act" (Kinder- und Jugendhilfegesetz).

## 3.2 The criminal justice system and juvenile justice legislation

### 3.2.1 The German criminal procedure system

Regarding adults, young adults and juveniles, German criminal justice law provides a range of formal sanctions (e. g. imprisonment or driving bans) as well as diversion. It depends of the expected degree of penalty which court within the German criminal procedure system is responsible for hearing the case in question.

In Germany, court levels are divided into Local Courts (Amtsgerichte), Regional Courts (Landgerichte), Higher Regional Courts (Oberlandesgerichte) and the Federal Court of Justice (Bundesgerichtshof). Given that they do not fall within the scope of the JJA, young adult and adult criminal cases in which the sentence is up to one year are heard by a judge of the Local Court. If the sentence is expected to be of three years maximum, the case is heard by a judge of a Local Court and two lay judges. In more serious cases in which the sentence exceeds three years, cases are heard by three judges and three to six lay judges at the Regional Court. Appeals and certain crimes are referred to the Higher Regional Court, where five judges hear the cases.

With regard to juvenile criminal procedure, Germany has established a specialized Juvenile Court system (§37 JGG; Dünkel 2010). Cases that presumably result in non-custodial measures (diversion) are presided over by a single youth judge (Jugendrichter) at the local court. For cases where a youth sentence is to be expected, the case will be transferred to the youth court at the local courts which is composed of a judge and two lay assistants (Jugendschöffengericht). Very serious cases (e. g. homicide, manslaughter or sexual offences against minors) are filed to the youth chamber (Jugendkammer) at the Regional court (Landgericht). Furthermore, a special youth service (Jugendgerichtshilfe, JGH) provided by the youth welfare office is involved in all youth court proceedings. This service advises the offenders as well as their families and informs the juvenile prosecutor and court about the social background of the offenders. Moreover, the youth service takes part in court proceedings, examines if a diversion from a formal court sanction applies and is partly responsible for the aftercare of the offenders and supervision of the execution of educational measures (§ 38 JGG; § 50 JGG).

### 3.2.2 Sanctions of the German juvenile justice system

All interventions of the JGG are structured according to the principle of minimum intervention, i.e. penal intervention should only take place if absolutely necessary. Similar to criminal offences by adults and young adults, a criminal offence by a juvenile can either be imposed with a diversion (§ 45 JGG, § 47 JGG) or different kind of court sanctions (Laubenthal/Nestler 2010: 479; Sonnen 2015). The latter encompass educational measures (§ 5 Abs. I JGG, § 9 ff JGG), disciplinary actions (§ 5 II JGG, § 13 ff JGG) and – as a last resort – the youth sentence (§ 5 II JGG, § 17 JGG, § 17 ff. JGG).

### **a) Diversion**

A diversion means informal sanctions instead of a formal court proceeding so that the case will be dismissed (§ 45 JGG, § 47 JGG). The basic idea behind diversion is to avoid the potential negative consequences of formal sanctions for the personal and social development of young persons and, in fact, compared to formal sanctions, the recidivism rate is very low when diversion is applied. Hence, diversion has proved to be quite effective in preventing reoffending (Sonnen 2010; 2015: 123). Different forms of diversion are applicable. In the case of petty crimes, it will be refrained from any sanction. Diversion can also be combined with education, i.e. measures are taken together with parents or schools or in the form of victim-offender reconciliation. A diversion with intervention includes minor sanctions (e. g. short terms community services or social training courses). In Germany, on average 70% of all juvenile court proceedings have been dispensed by diversion during the last years (Sonnen 2010: 483; Dünkel 2016).

### **b) Formal court sanctions**

As outlined above, the Juvenile Justice Law (§ 5 JGG) provides three different forms of court sanctions:

- **Educational measures (§ 5 I JGG, § 9 ff JGG):**

In different court directives (§ 10 JGG), youth judges can impose a range of educational measures which inter alia include social training courses or victim-offender mediation. Another educational measures include the placement of the young person in a residential home of the youth welfare office or the allocation of a social worker to the young offender (§ 12 JGG). In cases of presumably drug dependent offenders, judges can also impose drug treatment to drug dependent offenders. If the offender is below the age of 16, parents need to give their consent to drug treatment. By the age of sixteen, such treatment can only be imposed with the consent of the juvenile (§ 10 II JGG).

- **Disciplinary measures (§ 5 II JGG, § 13 ff JGG):**

In contrast to a youth sentence (see below), disciplinary measures shall have a warning character and shall not stigmatise. There are three different forms of sanctions: formal warnings, the imposition of conditions as well as youth arrest (Laubenthal/Nestler 2010: 479).

#### *Formal warning*

The aim of a formal warning is to remind the juvenile that his/her behavior was illegal and can be sentenced more harshly. A warning is often applied in combination with other sanctioning measures.

#### *Imposition of conditions*

The most common sanction in juvenile court proceedings is the imposition of conditions (see table 1 below). The most important sanctions are community services the offender has to



perform. Judges can further impose that the young person by all means retrieves the damages caused by the offence, e.g. by working for the injured person or compensation payment. A personal apology to the injured party further forms part of the listed sanctions, but as a sanction taken on its own, only plays a secondary role (Dünkel 2010; Laubenthal/Nestler 2010: 479).

### *Youth arrest*

The JGG differentiates between three different forms of youth arrest: leisure time arrest (weekend arrest), short term arrest with a maximum length of four days as well as long-term arrest between one and four weeks. Youth arrest is seen a dissuasive penalty, a kind of shock incarceration that intends to change the young delinquents' behavior (Dünkel 2010; McKendry 2015: 209). Currently (end of April 2015), 35 youth arrest houses do exist in Germany with a possible occupancy of 1.166 detainees (DJI n. s.). In 2015 (by the end of April), 17,5% (in numbers: 11.446)<sup>3</sup> of all convictions according to the JGG provided youth arrest. Youth arrest is, hence, the less common disciplinary measure (see table 1 below).

While youth arrest has been only vaguely regulated through § 90 JGG and a Code of Youth Arrest Procedure (Jugendarrestvollzugsordnung - JAVollzO) for a long time, many German Laender have passed more detailed laws concerning youth arrest throughout the last years (DVJJ 2016). These laws mostly foresee an intense care and support during youth arrest. In reality, however, this intense care often cannot be realised due to a lack of resources (McKendry 2015).

### *Youth sentence (§ 5 II JGG, § 17 JGG)*

Youth sentence is the ultima ratio of the outlined sanctions. In this vein, youth sentence is only applicable in cases of a special "severity of guilt" (§17 JGG), i. e. in cases of severe criminal charges, "detrimental propensities" or "sustained misconduct, which requires insistent educational adjustment" (Streng 2012: 231). According to the JGG (§ 17 I), youth sentence has to be applied as deprivation of liberty. In Germany, however, approximately two-thirds of all youth sentences are placed on probation (Eisenberg 2013: 298; table 1 below). Probation is possible when it can be expected that young offenders will change their lifestyle without being actually imprisoned (§21 JGG). For this reason, Endres et al. (2014: 117) claim that, in Germany, only young offenders are sentenced to prison who committed very severe crimes. Moreover, the principle of 'treatment instead of punishment' allows for (young and adult) prisoners who are drug addicted and with a sentence below 2 years to apply for an abstinence-based treatment outside prisons. In these cases, the sentence could be suspended, and in case of a successful treatment, the time spent in a therapeutic institution is being acknowledged, and the sentence is being erased. In case of an

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<sup>3</sup> As a young person can be sentenced with youth arrest several times, this number does not indicate how many young persons de facto were punished with youth arrest. Moreover, it is not possible to indicate how many young persons are actually arrested in German youth arrest houses because official statistics on imprisonment only include persons in prison.

unsuccessful treatment (break-off of treatment, relapse), the rest of the sentence will be executed.

While the JGG allows the youth sentence to be executed in open or closed prisons, the vast majority of young prisoners in Germany are imprisoned in closed prisons (Walkenhorst 2010) – in 2016, for example, of a total of 4010 young prisoners convicted according to JGG only 370 prisoners were placed in open prisons (Statistisches Bundesamt 2017). The duration of a prison sentence for juveniles is at minimum six months with a maximum of five years. In cases of very severe offences, which - corresponding to the general penal law - would be punished with more than ten years of imprisonment, the maximum length of imprisonment of the juvenile can be extended to ten years (§18 JGG). The minimum sentence of six months was chosen due to an “educational mission”, which shapes the JGG and shall secure that young offenders take over social responsibility in the future (Sonnen 2015: 121-125; Cornel 2010). In this vein, the legislature argues that a youth sentence below six months cannot accomplish this mission (Dünkel/Heinz 2017: 311). Yet, a view on the recidivism rate of young offenders released from German prisons puts into question in how far youth prisons in Germany are able to fulfill their ascribed educational mission. According to Grieger and Hosser (2014), for example, approximately 75% of the young prisoners analyzed were sentenced again within 78 months after their first imprisonment. In general, in Germany, it holds true that the harder the sanction, the higher the recidivism rate (Sonnen 2010; 2015: 123-124).

The legal situation for young prisoners in Germany only changed at the beginning of 2008. Before 2008 only a few general legal provisions existed in the JJA and in the Prison Act (Strafvollzugsgesetz, StVollzG) for adult prisoners. There had not been a differentiated legal framework covering the legal rights and duties of young prisoners. The Federal Constitutional Court (Bundesverfassungsgericht) outlawed this missing primary legislation as being unconstitutional since in Germany any restriction of fundamental human rights has to be based on regulations in law. Consequently, the Federal Constitutional Court obliged the legislators of the Federal States to pass primary legislation before the end of 2007. In September 2006, a general reform of the legislative competences came into force, transferring the competences for prison legislation to the Federal States (“Länder”). The new State Laws on youth prisons in the Federal States vary to some extent and express different political orientations. Nevertheless, there is a strong consensus that the organization of youth prisons, even more than in adult prisons, must be, similar to the JGG, oriented towards rehabilitation and education (Dünkel/Heinz 2017: 315; Goerdeler 2015: 180-181; Feest/Bammann 2010: 536-538). Furthermore, the unanimous opinion is that youth prisoners shall be accommodated in small living groups and individual cells during the night. All youth prisons should also provide a variety of school and vocational training programs, special (social) therapeutic units, and a system of progressive preparation for release (including leaves of absence, early release schemes and continuous care and aftercare)

(Dünkel/Heinz 2017: 315-316; Goerdeler 2015).<sup>4</sup> Although the competence of youth prison legislation has been transferred to the Federal States, legislation concerning prisoners' complaints rights and procedures are still Federal Law. The reform law of 13 December 2008 brought major improvements, guaranteeing juvenile and young adult inmates an oral hearing as well as regular legal advice when complaining to the court (Dünkel/Heinz 2017: 316).

### 3.3 Patterns of convictions of young offenders and the young prison population

After a peak in the 1980s, the increase of juvenile crime rates levelled off in the mid-1990s and since the early 2000s another remarkable decrease of juvenile delinquency could be observed (Baier/Prätor 2016; Dünkel/Heinz 2017: 307). According to Dünkel (2016), for the last 15 years, juvenile crime rates, particularly violent offences, have decreased by 20 percent since 2005. Whereas the rates for juveniles and young adults hence decreased, other age groups such as adults between 21 and 40 between 1998 and 2008 showed a strong increase of registered prevalence rates (+20 % and +40 %) (Dünkel/Heinz 2017: 308). Moreover, juvenile delinquency in Germany in general is characterized by its petty and episodic nature. The large majority of delinquent acts committed by juveniles are property offences, primarily theft, property damage, vandalism, and minor drug crimes. Spieß (2012), for example, demonstrated that in 2010 69 % of all registered crimes of juveniles and 56 % of young adults (18–20 years old) comprised shoplifting, vandalism, damage to property, and simple bodily injury. Therefore, juvenile delinquency is not seen as a major problem of German society.

Table 1: Number of convictions and sanctions according to JGG

Year	Convictions according to JGG in total*	Educational measures	Impositions	Youth arrest	Youth sentence	Thereof probation
2015	65342	24 297 (37,1%)	37 753 (57,7%)	11 446 (17,5%)	10550 (16,1%)	6383 (60,5%)
2014	72 094	26 088 (36,1%)	41 647 (57,7%)	12 706 (17,6%)	11772 (16,3%)	7222 (61,3%)
2013	81 737	27948 (34,1%)	47723 (58,3%)	14481 (17,7%)	13187 (16,1%)	7991 (60,5%)
2012	91695	30 123 (32,8%)	54250 (59,1%)	16470 (17,9%)	14803 (16,1%)	8864 (59,8%)
2011	102175	32037 (31,3%)	61 295 (59,9%)	19074 (18,6%)	16168 (15,8%)	9948 (61,5%)
2010	108 464	24297 (22,4%)	66 718 (61,5%)	19892 (18,3%)	17241 (15,8%)	10858 (62,9%)

\* As a young person can be sentenced with several convictions, this number does not indicate how many young persons de facto were punished with convictions.

<sup>4</sup> For a discussion on how far the new State laws on youth prisons adhere to international standards, see Feest & Bammann (2010: 540-541).

Source: Own elaboration based on Statistisches Bundesamt 2012a – 2017a

The trend of decreasing juvenile crime rates is also reflected in declining numbers of convictions according to the JGG (see table 1). Congruent to the idea of an “ultima ratio” formulated in the JGG, table 1 shows that youth sentence clearly constitutes the minority of the total number convictions, whereas other sanctions, particularly educational measures, dominate the pattern of convictions. Moreover, about 85 % of youth prison sentences are between 6 months and 2 years and approximately 60% of them are suspended, i.e., the juvenile is supported and supervised by the probation service (Dünkel/Hein 2017: 313; see table 1). For this reason, the German approach to deal with juvenile delinquency can be characterized as relatively moderate. Contrary to other European countries, a punitive turn in sanctioning juvenile and young adult offenders cannot be seen in Germany (Dünkel 2016).

Table 2: Young prisoner population in Germany

Year	Total prison population	Young Prisoners convicted according to general criminal law		Young Prisoners convicted according to youth criminal law				Prisoners 14-25 yrs		Prisoners convicted according to youth criminal law		
		Age 18-21	Age 18-25	Age 14-18	Age 18-21	Age 21-25	Age 25 or older	total	therefrom women	total	therefrom women	therefrom without German citizenship
2016	50858	226	3228	399	1801	1770	40	7424	322 (4,3%)	4010	144 (3,5%)	1065 (26,5%)
2015	52412	174	3516	439	1944	1961	53	8087	361 (4,4%)	4397	139 (3,1%)	1276 (29%)
2014	54515	163	4010	500	2178	2173	59	9024	378 (4,1%)	4910	181 (3,6%)	1176 (23,9%)
2013	56641	198	4475	518	2550	2 403	47	10 144	422 (4,1%)	5 518	184 (3,3%)	1211 (21,9%)
2012	58073	207	4895	581	2709	2 458	48	10 850	475 (4,3%)	5 796	212 (3,6%)	1192 (20,5%)
2011	60067	201	5121	587	2909	2543	60	11.361	476 (4,1%)	6099	242 (3,9%)	1304 (21,3%)
2010	60693	222	5 209	640	3 075	2 376	93	11 522	458 (3,9%)	6 184	205 (3,3%)	1276 (20,6%)

Source: Own elaboration based on Statistisches Bundesamt 2011b – 2017b

Partly as a consequence of these patterns of convictions according to the JGG, young prisoners (14-25 years of age) clearly make up the minority of the total prisoner population in Germany. As table 2 shows, in 2016, young prisoners (14-25 years) made up 14,5 percent of the total prisoner population and only 7,8 percent if only young prisoners are considered who were convicted according to the JGG. Moreover, according to Dünkel (2016), the total number of young prisoners decreased by 20 percent since 2005. Youth imprisonment rates, however, differ considerably across the German Federal States. In general, they are higher in the East, partly because there was more violent crime in the Eastern regions. In Schleswig-Holstein, for example, the imprisonment rate in 2015 was 36 per 100,000 of the 14–25 age group, whereas it was 120 per 100,000 in neighboring Mecklenburg-Western Pomerania (Dünkel/Heinz 2017: 316). Furthermore, it can be stated that the young prison population in Germany is predominantly male and above 18 years of age. Looking at the young prisoners convicted according to the JGG, prisoners without German citizenship made up between

20,5% and 29% of this group in total throughout the last years (see table 2). Concerning the same group (young prisoners convicted according to the JGG), in 2016, approximately 33 percent were imprisoned due to robbery and extortion, 23,4% because of theft and embezzlement, 20 percent due to bodily injuries and only 3,8 percent because of drug crimes (Statistisches Bundesamt 2017b). This pattern holds true for the young prison population in total throughout the last years.

## **4. Drug use among young people in Germany**

### **4.1 Drug use among young people in Germany**

While nearly all young people in Germany have experiences with alcohol, the use of tobacco has been continuously declining throughout the last years. In 2015, about 30 percent of young adults (15-24 years of age) reported the use of tobacco products within the last year (see appendix for more details). Concerning illicit drugs, cannabis still remains by far the most common illicit drug in Germany among both young adults and pupils. About 20 percent of these groups have used cannabis within the last year respectively during lifetime (see appendix). Several studies even indicate a very slight increase of cannabis use among the young population throughout the last years, but this may be attributed to a rising willingness to talk about this drug due to its “daily” character (Werse 2016: 34-35). Cannabis is followed by amphetamines which have been used by 4 percent of young adults in Germany within the last year according to the latest EMCDDA report (see appendix for more details). In general, consumption of illicit drugs is more common among young males than young females and, compared to the population in general, remains higher among young adults, in particular 18- to 25-year-olds (EMCDDA 2017: 5). Patterns of illicit drug use among young people in Germany, however, can vary considerably by region. The use of methamphetamine, for example, is relatively widespread in the South-eastern Federal States compared to the Western part of Germany (Milin et al. 2014).

### **4.2 Drug use among young people in touch with the CJS**

Due to missing data, it is extremely hard to detect patterns of drug use among all young people in touch with the criminal Justice system (CJS). For this reason, this report focuses on drug use among the young arrest/prison population. In contrast to drug use among the general population, however, there is no national data collection system regarding drug use (and other health issues) in German prisons. Since 2016 respective data has to be collected in all prisons of all Federal States, but this data is up to date not publicly available. Moreover, studies of drug use in German prisons are rare and mostly focus on drug use in adult prisons (EMCDDA 2017: 14; Häßler/Sühling 18-19, 20; Klatt/Baier 2017: 5). Hence, scale and patterns of drug use in German prisons, especially youth prisons, remain largely unknown.

Existing data, however, indicates that drug use is more common among prison inmates than in the general population. With a view on adult prisons, Stöver (2002; 2012) estimates on the basis of different assumptions that the ratio of drug users among inmates amounts to between 17 and 33 percent. This estimate seems to be relatively accurate. According to a

study conducted by Baier and Bergmann (2013), for example, 17 percent of adult inmates have used drugs within four weeks prior to the survey, whereas Häßler and Sühling (2017) have found that nearly 30 percent have ever used drugs during imprisonment.

Concerning drug use among the young arrest/prison population, one has to differentiate between drug use prior to arrest/prison and during arrest/prison. The following indications regarding all these groups refer to male inmates as no study includes female inmates: Only one study (Köhler et al. 2012) analyses drug use among young arrestants *prior to arrest*. This study finds that drug use prior to arrest is quite common among the survey participants. 75,5 percent of them have used illicit substances during their lifetime and polydrug use (defined as the use of three or more substances at the same time) is no exception (36,8%). Still 55,7 percent of the survey participants have used cannabis at least between one or two times within three months prior to arrest (thereof 23,6% daily), followed by cocaine which has been used by 18,9 percent within the same time (see appendix for details). On *drug use during arrest*, unfortunately, no data is available. Three studies focus on *drug use prior to prison*, but their results are not entirely comparable due to different definitions and measurements of drug use (see appendix for details). According to Hartenstein et al. (2016) 45 percent have used each cannabis (thereof 18 percent more than eight times a week) or methamphetamine (thereof 24 percent more than 8 times a month) within six months prior to prison (see appendix for details). With the exception of methamphetamine which relatively common use may be explained by the fact that Hartenstein et al. have surveyed inmates of a youth prison in Saxony (see section 4.1), similar results are found by Kerner et al. (2015). Thus, 58,5 percent of the surveyed inmates have regularly used cannabis within six months prior to prison, followed by regular use of heroin or cocaine (20,0 percent) prior to prison (see appendix for details). Notwithstanding different measurements, drug use prior to arrest or prison, hence, seems to be comparable and, in fact, to be quite common. The most comprehensive study on patterns of drug use among young inmates *during imprisonment* is provided by Klatt and Baier (2017). Based on survey among 865 inmates from five different German youth prisons, they find that, in total, nearly 30 percent have at least scarcely used illicit drugs within four weeks prior to the survey. 28,2 percent have used cannabis, 14,8 percent have used other illicit drugs than cannabis and 2,1 percent have injected illicit drugs (multiple answers possible). Moreover, this is the only study which identifies risk factors for drug use during imprisonment. Whereas the age and a migratory background do not influence the probability of drug use within prison, imprisonment due to a drug crime and the length of imprisonment (probability of drug use is higher among inmates with a prison term longer than 2 years compared to those inmates with a prison term shorter than 1 year) do so (Klatt/Baier 2017: 12).

To conclude, drug use among inmates seems to be common before arrest/prison as well as, though not surprisingly to a lesser extent, during imprisonment and, indeed, to be more prevalent than among the young population in general. Yet, the data basis is relatively weak (particular with a view on female inmates), so more studies are needed.

## 5. Initiatives to address drug use among young people in touch with the CJS

As outlined above (section 2.1), scale and content of prevention and harm reduction programs to address drug use among young people in general differ significantly across the Federal States in Germany. Consequently, this is also the case for specialized initiatives aiming at drug use among young people in touch with the CJS. The literature review as well as the scoping survey revealed that there are only little relevant initiatives in Germany and two of them do not exist anymore as these were pilot projects that did not receive further funding. The initiatives identified, however, either aim at young people in touch with the CJS in general (5.1) or at young arrestants/prisoners in particular (5.2).

### 5.1 Initiatives outside prisons

Beyond the possibility foreseen by the JGG to impose drug treatment to drug dependent offenders (see section 3.2.2) only a few specialized initiatives targeting drug use among young people in touch with the CJS exist:

#### *FreD (Frühintervention bei erstaußälligen Drogenkonsumenten)*

Starting as model project in 2000 by “Landschaftsverband Westfalen-Lippe (LWL)” FreD is probably the most well-known and widespread initiative aiming at young drug users in touch with the CJS in Germany. FreD is a counselling programme which refers to illicit drug users aged 14 to 21, who got into legal conflicts with the police because of drug related offence and get invited to the program as a consequence of their police record. The program encompasses eight group sessions and deals with drug-related problems (particular aiming at reducing/stopping drug use) as well as legal advice. After a successful evaluation of the program was undertaken (Görge et al. 2003) and the end of its model phase in 2007 it is currently implemented in more than 120 locations across several German Federal States. Apart from 2007, FreD has also been transferred to other European countries, but, on the European level, does not focus on young people in touch with the CJS. More information on FreD can be found here: <https://www.lwl.org/FreD/>.

#### *Kurve Kriegen*

“Kurve Kriegen” (literally translated as “getting around”) is a program established by the government of the Federal State North Rhine-Westphalia (NRW). It is implemented across several cities in NRW and aims at reducing further criminal conduct among juveniles aged 8 to 15 who at least committed one violent act or three property crimes. To that end, the police cooperate with several social welfare institutions under the supervision of the Ministry for Justice of NRW. Within “Kurve Kriegen” several “modules” (e.g. educational aid, language courses or coaching for parents) which, if necessary also include drug counselling and treatment, are individually adjusted to members of the target group. Thus far, “Kurve Kriegen” is successfully evaluated (prognos 2016). By now, for example, 40 percent of the

juveniles who participated in the program did not commit any crimes anymore. More information on „Kurve kriegen“ can be found here: <http://www.kurvekriegen.nrw.de/>.

### *„Ausweg“*

„Ausweg“ (literally translated as „escape“) is a project provided by “Kreisdiakonieverband Rems-Murr-Kreis”. Since 2004, the project aims at reducing/stopping drug use among young offenders and avoiding formal convictions which may be harmful for a social reintegration of young offenders. To this end, the lead partner established a network of cooperation between juvenile courts, the police and social welfare institutions in Rems-Murr-Kreis, a county within the Federal State Baden-Württemberg. By now, no evaluation has been undertaken, but the program is thought to be effective from the perspective of one key informant. More information on the project can be found here: <https://www.kdv-rmk.de/kooperationen/aemter-behoerden-esf/ausweg/>.

### *SMS “Schluss mit Suff” & “KiG” – Kiff im Griff*

„Schluss mit Suff“ (literally translated as „quit hitting the bottle“) and „Kiff im Griff“ (literally translated as „keeping dope under control“) are projects provided by BalanX e. V. in Berlin. The first focuses on problematic use of alcohol among delinquent juveniles, the latter on cannabis use. The aim of both programs is not necessarily to stop drug use, but to reflect one’s own use patterns. In order to be permitted to participate in one of the programs juveniles need a respective instruction according to § 10 II JGG. As such, both programs resemble classical drug counselling programs, but, in contrast to these programs, are explicitly designed for delinquent juveniles.

## **5.2 Initiatives inside arrest houses/prisons**

Beyond classical drug counselling (see section 2.2) even less initiatives aiming at drug use among young adults in touch with the CJS exist within German youth arrest houses/prisons. According to the key informants, this marks a serious gap in the German drug support system.

### *CAN Stop (Cannabis Stop)*

CAN Stop has been a BMG funded model project implemented by the German Centre for Addiction Research in Childhood and Adolescence (DZSKJ) between January 2015 and August 2016. CAN Stop is a group training aiming at stopping the use of cannabis which has been implemented and evaluated quite successfully in different settings, among others in one German youth prison. Beyond testing the training concept in one youth prison in Northern Germany DZSKJ has provided training courses for prison staff of thirteen German youth prisons so that respective staff members are able to conduct the CAN Stop-trainings by themselves. According to the key informants, however, it remains unclear if prison staff has continued to provide the training after the end of the project. More information on the project can be found in Baldus et al. (2011a, b).



### *Short term drug prevention using movies and documentaries*

Students from University of Applied Sciences in Munich conducted this project in 2012 and 2013 under the supervision of scientific staff from the same university. Using movies and documentaries in group discussions, this project aimed at initiating a reflection on their drug use among inmates of a youth arrest house in Munich. From the perspective of key informants, the project has proven to be effective. For example, participants uniformly stated that it never before has been possible to them to speak such openly about drugs. Due to a lack of resources, however, the project had to be stopped after its model phase. More information about the project can be found in Panitz et al. (2015).

### *Prevention activities regarding drug use, HIV/AIDS and hepatitis*

The local AIDS-Hilfen (AIDS-aid) in Munich and Berlin offer prevention activities for young prisoners and prison staff as well as juveniles in youth arrest houses and youth prisons on drug use, HIV/AIDS and hepatitis. It takes account of the specific needs of young inmates. Several times a month, there are voluntary courses offered on drug use and the prevention on HIV as well as hepatitis. By now, there is no formal evaluation of the prevention activities.

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## Appendix

### Prevalence of drug use among young people in Germany in general

*The prevalence of use of young adults (15-24 years of age) is from the EMCDDA (2017) Germany, Country Report. The prevalence data for young adults covers use within the last year/last 12 month.*

*The prevalence of use of pupils (9<sup>th</sup> – 10<sup>th</sup> grade) is from the ESPAD report for Germany (Kraus et al. 2012). The data covers lifetime prevalence.*

#### Cannabis

- Young adults: 19,5 % (males: 23,6%; females: 15,2%)
- Pupils: 22,2% (males: 28,2%; females: 16,8%)

#### Cocaine

- Young adults: 1,5% (males: 1,6%; females: 1,3%)
- Pupils: 3,1% (males: 4,0%; females: 2,2%)

#### Amphetamines

- Young adults: 4% (males: 5%; females: 2,9%)
- Pupils: 6% (males: 7,2%; females: 4,9%)

#### Ecstasy/MDMA

- Young adults: 2,1% (males: 2%; females: 2,2%)
- Pupils: 3,0% (males: 4,3%; females: 1,9%)

#### LSD

- Young adults: 0,6% (males: 0,5%; females: 0,7%)
- Pupils: 2,6% (males: 3,7%; females: 1,6%)

#### Opioids:

- Young adults: no data available
- Pupils: 0,8% (males: 1,2%; females: 0,5%)

#### NPS:

- Young adults: no data available
- Pupils: no data available

#### Alcohol

- Young adults: 87% (males: 86,6%; females: 87,3%)
- Pupils: 93,6% (males: 94,9%; females: 92,4%)

## **Tobacco**

- Young adults: 29,8% (males: 34,5%; females: 24,8%)
- Pupils: 63,4% (males: 68,3%; females: 58,9%)

## **Prevalence of drug use among young arrestants and young prisoners in Germany**

### *Prior to arrest*

#### **Köhler et al. 2012 (based on a survey among male inmates; n = 109; mean age: 18,9 yrs):**

Lifetime prevalence:

- tobacco: 97,2%
- alcohol: 93,4%
- illegal substances in total: 75,5% (cannabis: 74,5%; cocaine: 34,0%; amphetamine: 17,9%; hallucinogens: 17,9%; opioids: 6,6%)
- polydrug use (3 or more substances at the same time): 36,8%

Use of illicit drugs within 3 months prior to arrest:

- cannabis: never: 44,3%; 1-2 times: 17,9%; monthly: 1,9%; once a week: 12,3%; daily: 23,6%
- cocaine: never: 81,1%; 1-2 times: 9,4%; monthly: 4,7%; once a week: 3,8%; daily: 0,9%
- amphetamines: never: 91,5%; 1-2 times: 3,8%; monthly: 2,8%; weekly: 0,9%; daily: 0,9%
- hallucinogens: never: 93,3%; 1-2 times: 3,8%; monthly: 1,9%; once a week: 1%; daily: 0%
- opioids: never: 98,1%; 1-2 times: 3,8%; monthly, weekly and daily: 0%

### *Prior to prison*

#### **Hartenstein et al. 2016 (based on assessments by prison officers and a non-anonymous survey among inmates – n = 1299 male inmates from JVA Regis-Breitingen)**

Assessment of illicit drug addiction of inmates when entering prison by prison officers using a four-item scale:

- no drug addiction: 30%
- rudimentary addiction: 7%
- approximate addiction: 15%
- complete addiction: 33%
- no assessment possible: 28%

→ approximately 48% show illicit drug addiction (addiction measured as approximate or complete addiction)

Non-anonymous survey among inmates:

- cannabis (last 6 months before prison): 0/week: 47%; less than once a week: 9%; 1-2/week: 6%; 3-8/week: 12%; more than 8/week: 18%; no statement: 8%

- methamphetamine (last 6 months before prison): 0/month: 47%; less than once a month: 5%; 1-2/month: 6%; 3-8/month: 10%; more than 8/month: 24%; no statement: 7%
- heroin (last 6 months before prison): no use: 91%; at least less than once a month: 9%

**Kerner et al. 2015 (based on a survey among male inmates from JVA Rockenberg und JVA Wiesbaden; n = 205)**

- regular use of cannabis within the last 6 months before prison: 58,5%
- regular use of heroin or cocaine within the last 6 months before prison: 20,0%
- regular use of ecstasy or amphetamines: 10,2%
- self-assessment of drug addiction: 37,1%

**Stelly 2015 (based on diagnostic analysis of inmates when entering prison; n = ?)**

- no drug use prior to prison: 25%
- ambiguous: 2%
- use of minor amount of illicit drugs prior to prison: 28%
- use of large amounts of illicit drugs prior to prison: 45% (thereof 97% also cannabis; 46% also amphetamines; 26% also cocaine; 9% also heroin)

*During arrest*

No data available

*During prison*

**Klatt/Baier 2017 (based on a survey among male inmates; n = 865):**

at least scarce illicit drug use within the last 4 weeks in total: 29,7%

- Use of cannabis: 28,2%
- Injecting drug use: 2,1%
- Use of other drugs than cannabis: 14,8%

(multiple answers possible)

**Hartenstein 2014 (based on a non-anonymous survey among male inmates – n = 659 male inmates from JVA Regis-Breitingen):**

Use of drugs at least once during imprisonment in total: 21,6%

- Exclusively alcohol: 3,5%
- Alcohol + cannabis: 2,6%
- Exclusively cannabis: 4,7%
- Exclusively another illicit drug than cannabis: 0,9%
- Cannabis + another illicit drug than cannabis: 4,6%
- Cannabis + alcohol + another illicit drug than cannabis: 4,7%

→ remark: non-anonymus questionnaire; hence, the prevalence rate may be higher in reality