

## Broad outline of juvenile criminal proceedings

If you are charged with a criminal offence, you must be told in broad lines what to expect during the proceedings.

This factsheet is designed to provide you and your parents or legal guardians with an overview

1. **Juvenile justice applies** if you were aged 14 or over, but not yet 18, at the time the offence was committed.

2. Like any other criminal case, a juvenile procedure is in **four stages**:

- Pre-trial inquiry (*Ermittlungsverfahren*): Police and prosecutors examine the evidence to make sure it supports the charges against you. They have a duty to look at both incriminating and exonerating circumstances.
- Committal process (*Zwischenverfahren*): If the Public Prosecution Service decides that the case should go to court, a judge will look at the brief of evidence and decide on whether to commit you for trial.
- Trial (*Hauptverfahren*): This is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you.

Please note that you must attend the trial. If you fail to show up, a bench warrant may be issued to direct police to arrest you and deliver you to the Court. During the trial, the Court will assess the reliability and value of the evidence. It is up to you to make a statement or not.

- Sentence enforcement (*Vollstreckungsverfahren*): The sanctions or other measures imposed by the Court are carried out.

3. Juvenile proceedings, however, differ from the process described above. The **youth justice system's role is to educate rather than punish**. Its distinct rules and protocols are there for your protection. The legal consequences it entails are mainly designed to help you stay away from crime in the future.

- In a juvenile process, your parents/guardians are entitled, as a rule, to be kept up to date on the proceedings, to sit in on interviews or other parts of the investigation, or to lodge requests.
- The Court must assign you a public defender (*Pflichtverteidiger*) if
  - you are charged with a particularly serious offence,
  - a magistrate (*Ermittlungsrichter*) has to decide whether to remand you in custody, or
  - if you are likely to be given a juvenile sentence (*Jugendstrafe*).

Please note that you cannot be questioned without a lawyer being present. The same goes for taking part in a police line-up, or identification parade. The public defender's fee will normally be paid by the government.

- In a juvenile process, your case is decided on by experienced and specialised *prosecutors and judges* with a lot of expertise in the education of young people.
- Throughout the process, you will receive help from the Youth Justice Community Support Service (*Jugendgerichtshilfe/JGH*), which is run by your local city or district council's Youth Services department. Early on in the process, the Police or Prosecution Service will let *JGH* know what you are being charged with.

- *JGH* will typically invite your parents/guardians and you to talk, before sharing with prosecutors and the Youth Court what they have learnt about you, in order for them to get to know you better. This includes anything you might wish to say about the offence you are charged with. *JGH* are not bound by confidentiality in this regard.
- *JGH* will also be involved in the trial. Their role is to suggest to the Court any corrective measures they might regard as appropriate. At the same time, it is solely up to the Youth Court to decide which **legal consequences** to impose. As a rule, juvenile trials are held *in*



Weitere Informationen finden Sie auf der folgenden Internetseite:  
[www.justiz.nrw.de/BS/formulare/strafsachen/index.php](http://www.justiz.nrw.de/BS/formulare/strafsachen/index.php)

*camera*, that is, the public and the media are excluded. If, in exceptional cases – for example, if there is a co-defendant aged 18 or over - the trial is in open court, you will still have the right, in certain circumstances, to ask for the public or any individuals to be ordered to leave the courtroom. The trial ends with a conviction and sentence, a stay of charges (*Einstellung* - with the effects that the indictment is not proceeded with and you are discharged) or an acquittal. In the event that you are convicted, the legal consequences need to be *proportionate*.

- The Youth Court may impose *Erziehungsmassnahmen*, a kind of good behaviour bond, basically ordering you how to live your life. This might include compulsory accommodation in an institution, community service or attending a 'social training course'.
  - The Court may also give you a caution, impose conditions (such as restitution or an apology to the aggrieved party), or detention of up to four weeks at a juvenile correctional facility.
  - If all that is not enough, the Youth Court may impose a juvenile custodial sentence of between six months and ten years. Sentences of up to two years may be suspended and a probation officer assigned to you.
- Even with prosecutors and the Youth Court being satisfied that you have indeed committed a criminal offence, your conviction is by no means a done deal. Both during the pre-trial investigation and the trial, the Youth Court or the Prosecution Service can decide to discontinue prosecution and halt the proceedings in cases where
    - prosecution is not in the public interest, your role in the commission of the crime is not deemed serious enough,
    - you have, for example, apologised to the victim, or you have already been sufficiently reprimanded.

Decisions not to continue prosecution, educative measures and sanctions such as cautions and juvenile detention are only entered on the 'corrective education register'. Your employer does not need to know this. Access to the register is limited to prosecutors, courts and council youth services.

#### **4. What else you need to know**

- Before prosecutors decide whether to indict you, they must let you give your side of the story. This is when you can ask them to collect any particular evidence which you think might be in your favour. At the same time, you are not obliged to say anything about the accusations or the alleged offence. You or your parents/guardians are at any time free to hire a lawyer at your own expense.
- You and your parents/guardians will always be made aware of the full spectrum of your rights. Prior to an interview and following an arrest, you will be given leaflets outlining your rights. These leaflets are also available in many languages other than German. If your interview has been audio or video taped, you can object to the recording being passed on to other parties, in which case only a transcript will be forwarded. Without your consent, the recording or copies thereof may not be forwarded to parties other than those with statutory access to the case file.
- If you feel that your rights have been violated, you can ask for a review of the measures or decisions in question.

#### **5. If you were aged 18 or over, but not yet 21, at the time of the offence, you are classed as an adolescent.**

- Whilst criminal offences committed by adolescents are also dealt with by Youth Courts and specialised prosecutors, some of the juvenile justice rules and regulations do not apply to adolescents. Trials, for instance, are usually held in open court.
- Educative measures, juvenile correctional sanctions or juvenile sentences may only be imposed on adolescents whose developmental stage at the time of the offence resembled that of a juvenile or if the offence was more like a typical juvenile infraction. In all other cases, offences committed by adolescents will result in prison sentences or fines.