

**FOREIGN DELINQUENT MINORS
JUDICIAL PROCEEDINGS AND REHABILITATION MEASURES**

GERMANY

- By Mr Michael Kubink -

A - LEGAL CONTEXT

Police crime records for 2004 reveal a number of 547 000 foreign suspects. Almost 10 % of them – more than 50.000 – were juveniles. Before we can have a closer look at specific questions concerning the criminality of young immigrants we have to discuss the legal context.

1. Specific rules for juveniles

At first it is necessary to mention the rules of juvenile criminal law and the juvenile welfare law.

1.1. Juvenile criminal law

Juvenile criminal law is regulated by a special law, the Act on Juvenile Courts (JGG). This law dates originally from 1923 and was last radically amended in 1990. Juvenile jurisdiction was framed to include educational measures. Thus it provides special sanctions for juveniles (14 -17 year olds) and young adults (18-20 year olds) who are dealt with by the juvenile courts. In part it is concerned with educative and disciplinary measures, and in part it deals with youth imprisonment with or without probation. Juvenile law is applied to a young adult if at the time of the crime his development was the equivalent of that of a juvenile, or if the offence is a juvenile offence. Young offenders from the age of 21 are treated as adults. They are entirely subject to general criminal law as contained in the Book of Criminal Law (Strafgesetzbuch StGB).

Amongst the educative measures (“Erziehungsmaßnahmen”, Sec. 9-12 JGG) are the directives (“Weisungen”, Sec. 10 JGG). These are not punishment in the true sense. These measures are intended to promote the education of the juvenile (or young person). They are concerned, for example, with place of residence, or the performance of community service tasks. New directives were added when the law was changed in 1990 to include courses of social training, directives on personal social care and offender-victim-mediation. These directives are called "new ambulant measures" (NAM), because they are considered, by criminologists, to be particularly effective in a social pedagogical sense.

Under the directive on social care provided in Sec.10, Par. 1, 3rd sentence, number 5 JGG, a juvenile/young person on probation is placed under the personal care and supervision of an educational social worker for a period of between 9 and 12 months (there is no legal regulation on the duration of the period) Through this educational care young people who seem to be at particular risk and have already come to the attention of the authorities on several occasions due to their social deficiencies, are expected to realise the purpose of legal probation.

The social training course, Sec.10, Par.1, 3rd sentence, number 6 JGG, offers the possibility of educational care in a socially educational group. Programmes based on social topics and social learning are provided for offenders with special behavioural deficits for a period of 3 to 6 months (their duration has also not been fixed). For juveniles who readily turn to violence a course of anti-violence training is appropriate, for example.

By contrast, the offender-victim-mediation (Täter-Opfer-Ausgleich, TOA), Sec.10 par. 1, 3rd sentence, number 7 JGG is not concerned with educational care, but with a process of mediation by means of which conflicts are settled and interests are balanced. TOA is also regulated in the informal juvenile procedure according to Sec.45, par. 2, 2nd sentence JGG.

In contrast to the educational rulings, the disciplinary measures (Secs.13 - 16 JGG) also have a penal character. The juvenile (or young adult) is to be made to realise the injustice of his action, without a custodial sentence. These disciplinary measures include the imposition of conditions (the payment of a fine, carrying out some work, compensation for damage), cautioning and short-term detention, which can last from a weekend to 4 weeks.

Youth imprisonment (Secs.17, 18 JGG) is the only genuine criminal punishment under the Act on Juvenile Courts, though it has special juvenile juridical characteristics when compared with adult imprisonment under adult penal law. It lasts from 6 months to 10 years. The judge orders detention in youth imprisonment when, because of the criminal tendencies that are evidenced in the crime, educative and disciplinary measures as a means of learning do not seem to be adequate; or when punishment is necessary because of the seriousness of the crime. According to Sec. 21 JGG, it is possible to commute a custodial sentence to probation for any sentence of up to 2 years.

The Public Prosecution Office can decide not to prosecute, either together with the court (Sec. 45, par. 3 JGG) or without the participation of the court (Sec.45, par. 1 and 2 JGG). Also the court itself can suspend proceedings according to Sec. 47 JGG. Proceedings according to Secs. 45, 47 JGG are also described as diversion proceedings, or as informal juvenile proceedings. In juvenile criminology these informal proceedings are seen as particularly suitable for juveniles because the juvenile is not stigmatised by any verdict, because the process is quick and uncomplicated, and because the voluntary co-operation of the juvenile is important. The "educational measures" foreseen in Sec. 45 par. 2 JGG are seen as particularly appropriate because, in this way, formal public supervision and informal social supervision are able to work together. Thus, if the school, for example, imposes tasks to be performed after a misdemeanour, these may be accepted by the public prosecutor

as adequate "educational measures" and this can lead to the "dropping of any further prosecution". Diversion means redirecting social supervision and making use of the community's potential for resolving conflict.

1.2. Juvenile Welfare Law

Besides the JGG, in our context, the Child and Youth Welfare law (Kinder- und Jugendhilfegesetz, KJHG) is of particular significance in our context. The KJHG is a part of the Welfare Legislation, and (as the JGG) dates from 1990. But it was significantly revised in 2005. Next to the JGG, the KJHG has established a parallel structure that -unlike the JGG- does not provide for 'education in a criminal law sense', but only focuses on the welfare of the child or juvenile as the end for public support. This main thought is expressed in sec. 1 KJHG: 'Every young human has a right to be supported in his development' (par.1) and the "juvenile Welfare" should participate "in realizing the right under par.1", inter alia by supporting "positive conditions of life" (...) "and a child and family friendly environment"(par.3). In accordance with sec.2 par. 2. Nr. 4 KJHG so-called Assistance in Education under Sec. 27-35 KJHG is also amongst the purposes of the Juvenile Welfare Assistance.

Interestingly enough, we come across measures here that are already known to us from the catalogue of directives in the JGG. Sec. 29 KJHG for instance provides for the social group work that factually corresponds to the social training course in Sec. 10 par. 1 3rd sentence no. 6 JGG. And sec. 30 KJHG concerns an educational supervisor or a care assistant. This is a parallel to sec.10 par.1 3rd sentence no. 5 JGG. But in contrast to the JGG, the ruling under sec. 27 KJHG constitutes a right of the legal guardian to be assisted in educating his or her child or juvenile by the state, not a sanction imposed by the state. This right may, for example, come into existence where there are estrepement tendencies, or where a crime has been committed, if this has given rise to special assistance needs. The youth welfare offices, or where there are disputes, the Family Court, decides about this right.

From our vantage point, the ruling in sec. 6 KJHG on the scope of the right is important. Here, the right declared as an "every man's right" in sec.1 par.1 is restricted for foreigners. In accordance, only such foreigners may claim assistance of the KJHG that regularly reside in Germany "legally or on grounds of a leave to remain governed by the laws on foreigners". Children of asylum seekers who have not been recognized (so-called De-Facto-Refugees) do not belong to this category. In so far, the Child- and Juvenile Law makes a stringent and direct connection to the law on Foreigners and the Foreigner's status that results from it.

2. Questions concerning the legal status of foreigners

The wider context of the situation of foreigners who live in Germany is created by the Law on Foreigners.

2.1. Definitions - foreigner as a legal and political term

The formal legal category is based on citizenship. According to Art. 116 Basic Law, a German is a person who possesses German citizenship, or who, as a displaced person, at all events possesses German national identity, being of German descent. A foreigner, by contrast, is someone who is not German in the sense of Art. 116 Basic Law (now according to Section 2 §1 Law on Residency - AufenthG).

Citizenship in Germany is defined invariably according to the principle of descent (*ius sanguinis*) and not according to place of birth (*ius soli*). And so emigrants of German descent who were living on foreign territory after the Second World War remain German. On the other hand, the children born to foreign nationals living in Germany do not have German citizenship. To this extent, in association, the terms German/foreigner provide first of all a definition of national citizenship.

2.2. The Law on Foreigners

In order to expand on the above ideas and to further concretise the integration status of the migrants living here, it is necessary to have some knowledge of the basics of German law on Foreigners. The law on foreigners at last was reformed with the Law on Migration, 30.06.04 (BGBl. I S. 1950), which came into force 01.01.2005. The Law on Residency (AufenthG), which replaced the Law on Foreigners, is central to the complete reform of the laws dealing with foreigners' rights, which was undertaken in the Law on Migration. The intention is to find a compromise between economically oriented measures to direct immigration, ensuring public security, and striving toward integration. The law keeps to the term "Ausländer" (foreigner) according to Art. 116 Basic Law (the law, in accordance with sec.1. par. 2 AufenthG, does not apply to EU citizens, for whom separate rulings concerning freedom of movement exist). But the multi-layered nature of the new perspectives on "foreigners" is clear right from Section 1,§1, AufenthG), which redefines the legislative purpose. Here we read: *"The law serves to control and restrict the influx of foreigners into the Federal Republic of Germany. It enables and shapes migration, taking into account the ability of the Federal Republic of Germany to take in and integrate as well as the economic interests and the political and labour-market interests of the Federal Republic of Germany."* (...) The law regulates *"the residency and gainful employment of foreigners and it regulates the promotion of their integration."*

The abode of a foreigner requires a residency title (sec. 4 AufenthG). For the first time, the new law provides for the right to reside, and at the same time for the permission to have gainful employment. In accordance with sec. 4 par.1, 1st sentence AufenthG, a residency title provides the right to exercise a gainful employment. The residency titles are the permission to reside under sec. 7 AufenthG and the permission to settle in accordance with sec. 9 AufenthG. The permission to reside, a limited title, is the rule, and allows for a residence of up to three years (sec. 26 AufenthG). The permission to settle is a title that is not limited, and is the title that strengthens and secures the residency in Germany the most. This title regulates a right for foreigners who are integrated in Germany because of the length of their residence and their personal circumstances of life. To this effect, a candidate is required to have been in possession of a permission to reside for 5 years, to have a secure livelihood, and to have paid the fees for the pension insurance for the last five years.

The law derives its focus on integrative issues, especially concerning the described social deficits, from the provisions in sec. 43 - 44a AufenthG. The integration course provided for there is intended to realize a basic integration offer by the state. It deals with acquiring necessary language skills and basic knowledge of the legal and economic order, as well as German culture, history and conditions of life. In 2005 almost 115 000 migrants took part in such courses. Those programs take 600 hours. While sec. 43, 44 AufenthG establish a right for those who have acquired a permission to reside for the first time (sec. 44 par. 1 no.1 AufenthG), sec. 44 turns this right into an obligation for anyone doesn't participate despite having the right to do so and can therefore not even communicate in German at a basic level. In accordance with sec. 44a par. 3 AufenthG, violating this obligation to participate may endanger a renewal of the permission to reside (sec. 8 par. 3 AufenthG).

The law on Residency shows its concern for security issues in the rules on expulsion, sec. 53 - 56 AufenthG. These rules provide for different grades. Sec. 53 contains the so-called compulsory expulsion, i.e. the Foreigner's Office has no margin of appreciation; it must order the expulsion. All cases provided for here concern noticeable problems with criminal law. An exemplary case is one in which a sentence of at least three years of imprisonment or juvenile detention has been pronounced and becomes incontestable (sec. 53 no.1 AufenthG). Sec.54 AufenthG speaks of an expulsion as a rule. Though the authority need not expel, it has a very limited margin of appreciation. This is the case e.g. where a sentence of at least two years juvenile detention has been passed (sec. 54 no.1 AufenthG) or where there are other - not necessarily criminal - dangers to security. Finally, section 55 contains a 'can-expulsion' that depends on the exercise of the margin of appreciation where the public security and significant interest of the Federal Republic of Germany are in danger.

In contrast, special protection from expulsion is provided for in sec. 56 AufenthG. This applies for example to persons who have a permission to settle (par. 1, 1st sentence, no. 1) or to minors who have already been residing legally in Germany for five years (par. 1 1st sentence no. 2). An expulsion may only occur on "serious grounds of public security and order" (par. 1 2nd sentence). However, in cases of a compulsory expulsion, this requirement is met – even concerning minors (par. 2 2nd sentence).

In sec. 95, 96, the Law on Residency obtains the direct character of a criminal law. The rules in question mostly deal with different kinds of residency without permission. So far, there have been no findings on whether these provisions have been violated. But the rules mostly correspond to with sec. 92 and 92 a of the former Foreigners' Law.

2.3. Reform of the Law on Citizenship

And the Law on Citizenship (StAG - Law of 15 July 1999, BGBI. I S. 1618), that had already been changed in 1999, adds elements of the place of birth principle to the still valid principle of descent. According to Section 4,§3 StAG, a child born in Germany of foreign parents acquires German nationality if one parent has been legally registered as normally resident in Germany, and has held, for three years, the right to unlimited residence in Germany. In addition to this, foreigners who live in Germany for at least eight years, according to Section 10 StAG can demand naturalization, if they fulfil specific conditions according to Section 8 (e.g. no case of expulsion). For minors under 16 years requirements can be relieved.

B - HISTORICAL CONTEXT

The legal context is accompanied and influenced by discussions within politics, the media and research. According to the official figures, the 7.3 million foreign residents registered in 2004 constitute 8.8% of the total population, and so this interest should come as no surprise. But viewed just in the light of these figures, any serious attempt to record the situation and its problems soon strikes empirical imponderables. There are a large number of ethnic German emigrants, who are defined as German citizens under German law and, since 2000, there are a considerable number of foreign nationals (800 000) who have become German citizens. In addition, it is calculated that there are some 1.3 million people who are in Germany illegally. Therefore, according to serious estimations, it is supposed that 17% of the population are immigrants whose lives are complicated by problems of migration. In the younger age groups, from 7 to 17+ (the main concern of this paper), the

percentage of immigrants is estimated at 23% (12th Report on Children and Juveniles, 2005, 71). The problems of migration are, therefore, one of the main social problem issues, which we are going to have to face.

Any social or political perceptions of the problem of migration are certainly influenced by the prevailing historical situation. Since 1955 German government signed contracts of recruitment with different European states (Italy, Greece, Spain) to recruit workers for the expanding economy. Foreigners were welcomed into Germany as useful labour. This was connected with the idea that the residence of foreign nationals in Germany was to be of a temporary nature. Soon the residence of foreigners in Germany became a political matter when the number of people of other nationalities resident in Germany exceeded the one million mark (1964). It was at this time that rules were drawn up, in the 1965 Law on Foreigners, which sought primarily to control foreigners living in Germany by political regulation. The clear priority given to economic interests was what marked the policy on foreigners then: this expressed itself in restrictions and time limits on both residence and work permits. Relatively speaking, any ideas of social and cultural integration were very much in the background. The most frequently used expression "Gastarbeiter" (guest worker), that both described the limited share foreigners had in German society and pointed to the time limit placed on their residency, is characteristic of this period. At that time, and again with regard to the overwhelming economic interests, by using the term "Ausländer" (literally "out-landers") the political options on action were constantly linked to the ability to order "out" these groups.

In the middle of the 70s, when the labour market began to collapse, foreign labour was no longer essential to growth and people realised that the residency of foreign nationals would cause social problems. According to that the recruitment of foreigners has been stopped in 1973 ("Anwerbestopp"). But from now on the families of the former guest workers followed them. Since the end of the 80s, using "globalisation" as a heading, we have been experiencing world wide movements of migrants. For migrants the main priorities are to redress the unequal distribution of wealth and to have a chance to determine their own social conditions. These movements of migrants are shown in the figures for asylum-seekers, which reached their peak in Germany (440 000) in 1992. It was during this period that communism in Europe collapsed, with a significant effect on Germany. This has meant that 2.7 million late repatriates have immigrated to Germany from neighbouring Eastern European countries since 1988. Clearly, many changes are taking place parallel to one another, making it obvious that foreigners are not a homogenous group and that the term "foreigner" is somewhat ambiguous.

At the beginning of the 1990s, the first political reaction to the development described was to pass amendments to the law on foreigners which, particularly with the introduction of the third state rule in Article 16a of the Basic Law, caused a significant restriction to the right to asylum. And with the immigration law that came into force on 1.1.2005, immigration is to be controlled, but the integration of foreigners living in Germany is also to be promoted. The integration politics of the government follows a philosophy of support and demand. From this new point of view former omissions that led to disadvantages for immigrants should be eliminated. And at the same time foreigners should be encouraged to cooperate. The integration courses described above therefore express the idea of integration by education.

The extent to which foreigners in the media or within political debates are to be regarded as a minority deserving protection and capable of integration or, on the contrary, as a threat to society, might depend quite significantly on the level of delinquency in the foreign population.

C - STATISTICAL SOURCES

In Germany there are no official guidelines for the way how data of criminal cases should be registered.

1. The police crime statistics as analytic basis

Statistical analysis of crime usually is based on the data of the police crime statistics ("Polizeiliche Kriminalstatistik" – PKS) of the Federal Republic of Germany. which are published annually by the Federal Bureau of Criminal Investigation. This is a collection of data that deals only with police suspicions of crime and is not judicial proof. The police crime statistics (PKS) use the category "non-German crime suspects". The PKS includes people of foreign nationality, stateless persons, and people of disputed, or unknown nationality, in this category (PKS 2004, 19). Besides this there are crime statistics (e.g. the conviction statistics – "Strafverfolgungsstatistik" - and the prison statistics) published by the Federal Statistical Office. These statistics collect the number of sentenced people and of prisoners. But you have to take into account that these statistics are less differentiated.

1.1. Criticism of the concentration on the police crime statistics

Criminologists have long been aware that these global statistics can only be interpreted with great reservation, because, for example, we have no sufficiently precise figures for the real size of the foreign population in

Germany; because, in the criminal statistics of the police, groups of foreign offenders are included who are not part of the resident population; because they include crimes that can actually only be committed by foreigners, and, finally, because the different social situations of the various groups in the population are totally disregarded in criminal statistics. With this as the background, the estimates of criminologists range from ideas that foreigners truly have a higher level of criminality to the interpretation that the higher level of delinquency is just "an artefact" of the statistics (First Periodical Security Report - Periodischer Sicherheitsbericht, PSB -, 2002, 316).

1.2. Alternatives to the police crime statistics

Criminologists point out that, in particular groups of people, the kind of criminality exhibited and its extent may depend on nationality. Anyone who treats the concept of "foreigner criminality" seriously - in the sense of the police crime statistics - is making a conditional link between formal citizenship and criminality and is, thus, declaring that the status "foreigner" is a kind of criminogenic character trait. Accordingly, it is just a different social situation that brings about a different legal statue-quo in everyday life. The kinds and levels of criminality in question cannot be expressed in terms that are affixed to membership of a particular group. On the contrary, they should be expressed in terms of the prevailing migration conditions and the contingent peculiarities and disadvantages. Thus people should be talking in terms of migration criminality rather than foreigner criminality. From this social science perspective the criminality of autochthons, the population born and settled in Germany, stands in contrast to the criminal behaviour of the allochthon, the migrant population, since these are separate issues with different explanations.

In criminological research there have been individual attempts to take account of the relationships and situations described above and integrate them when compiling empirical data on criminality. For this reason, in the First Periodical Report of the Federal Republic on Security (PSB), which - similarly to the British "Crime Surveys" - gave a first comprehensive survey of the state of German criminality, a distinction has been made between migrants with German passports and those without. Not only people who have temporarily come to Germany are included as migrants. As well as the people who have physically left their native countries, the children born to them in their country of destination are also defined as migrants (PSB, 308). However, tourists, for example, and people travelling through are not.

1.3. Indispensability of the police crime statistics

In the official crime statistics such alternative approaches have not yet met with acceptance, since these statistics are still strictly based on formal national citizenship. So any empirical analysis cannot dispense with the term "non-German". This is, therefore, a negative definition, which places together in one umbrella category, foreign workers, students and schoolchildren, foreign tourists, foreign military forces stationed in Germany, asylum seekers and illegal immigrants. This is then opposed to the category "German crime suspects". At the present time, despite all the reservations there are about this lack of differentiation, the PKS still provides the most comprehensive survey of crime statistics.

2. Statistical analysis and empirical findings

The presentation following refers the findings based on the official statistics, using data from the police crime statistics completed by some data from the conviction statistics and the prison statistics.

2.1. Total figures - taking "offences specific to foreigners" into account

To get a basic assessment we look, in the first place, at the general data of the police crime statistics. These are not differentiated according to age. Not only does the preliminary assessment have to be general but, it should be noted, there are some deficiencies in the data for the juvenile area. According to PKS definitions, a crime suspect is someone who, as a result of police investigations, is suspected of having committed a criminal offence, since there is sufficient actual evidence.

Police crime records for 2004 reveal a number of almost 547 000 foreign suspects. This constitutes 22.9% of all crime suspects. Thus the level of criminality is proportionately almost three times greater than the registered 8.8% share of the total population.

Table 1 also reveals that this is an ever-decreasing share. Since 1993, when with a share of 33.6% of total crime suspects the highest point was reached; registered criminality in the non-German group has decreased by about a third. As we will see in more detail later, this essentially ties in with the limitations to the law on asylum which effectively reduced the size of a group that was particularly badly affected by high levels of criminality - see diagram 4 below. In addition, table 1 reveals, even on a first analysis, a peculiarity in criminal data collected on non-Germans. Included in the total are offences that can practically only be committed by foreigners - except

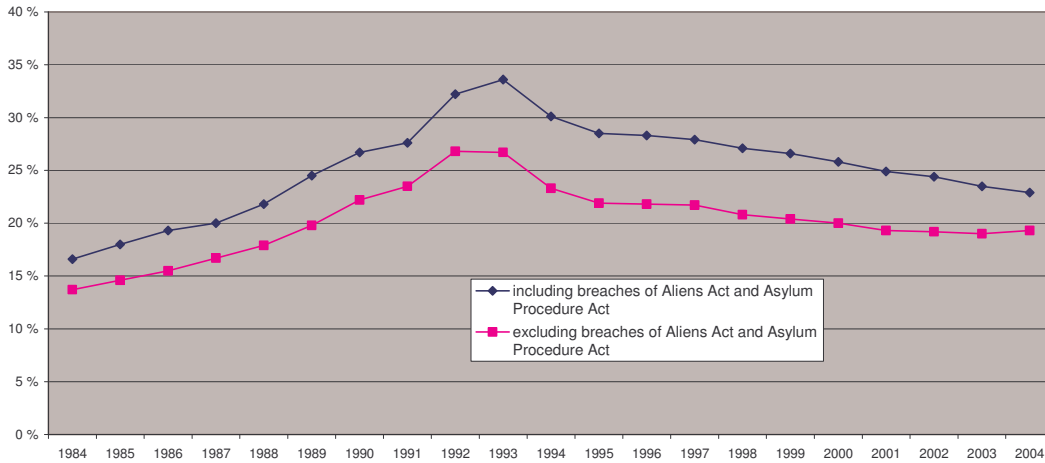
in cases of complicity. These are offences against the Law on Foreigners and the law on asylum procedure. In the Law on Foreigners (AuslG), the forerunner of the current Law on Residency (AufenthG) which was introduced along with the Law on Migration, the illegal, unauthorised crossing of borders and the smuggling of people over borders were declared to be prosecutable offences (Art. 92,92a,92b AuslG.) - now corresponding to Art. 95-97 AufenthG). Under criminal law, for example, entry without the necessary passport, or the re-entry of asylum seekers who have been deported, are forbidden. In 2004 circa 108 000 foreigners were prosecuted on suspicion of having committed these crimes that are specific to foreigners. This constitutes a fifth of all non-German crime suspects, as shown in diagram 1 and table 1.

Table 1

Development of foreign suspects since 1984 (whole of Germany)						
Year	Total number of recorded crimes			Total number of crimes excluding breaches of Aliens Act and Asylum Procedure Act		
	Total number of suspects	Non-Germans		Total number of suspects	Non-Germans	
		Total	%		Total	%
1984	1.254.213	207.612	16,6	1.209.756	165.705	13,7
1985	1.290.999	231.868	18,0	1.237.083	180.181	14,6
1986	1.306.910	252.018	19,3	1.246.193	193.703	15,5
1987	1.290.441	258.326	20,0	1.236.540	206.863	16,7
1988	1.314.080	286.744	21,8	1.247.563	223.848	17,9
1989	1.370.962	336.016	24,5	1.285.534	254.737	19,8
1990	1.437.923	383.583	26,7	1.349.912	299.415	22,2
1991	1.466.752	405.545	27,6	1.382.713	324.864	23,5
1992	1.581.734	509.305	32,2	1.459.654	390.861	26,8
1993	2.051.775	689.920	33,6	1.849.520	492.919	26,7
1994	2.037.729	612.988	30,1	1.848.087	430.075	23,3
1995	2.118.104	603.496	28,5	1.929.344	422.846	21,9
1996	2.213.293	625.585	28,3	2.019.186	440.904	21,8
1997	2.273.560	633.480	27,9	2.081.304	452.503	21,7
1998	2.319.895	628.477	27,1	2.122.307	441.694	20,8
1999	2.263.140	601.221	26,6	2.073.194	422.871	20,4
2000	2.286.372	589.109	25,8	2.106.900	421.517	20,0
2001	2.280.611	568.384	24,9	2.107.284	405.929	19,3
2002	2.326.149	566.918	24,4	2.163.629	415.526	19,2
2003	2.355.161	553.750	23,5	2.212.424	421.372	19,0
2004	2.384.268	546.985	22,9	2.267.920	438.775	19,3

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

**Diagram 1: Development of non-German suspects*
- including and excluding breaches of Aliens Act and Asylum Procedure Act
(1984-2004**)**



* percentage of total number of suspects

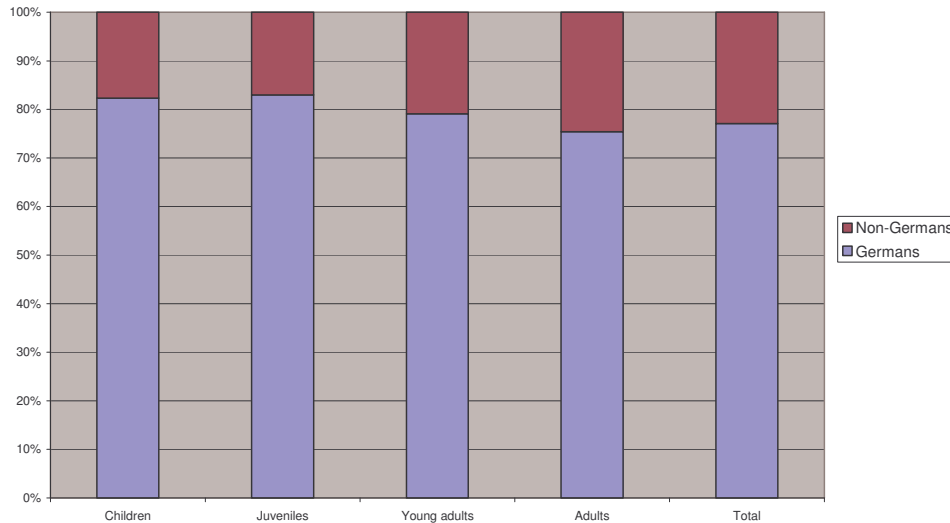
**1984-1990 old states; 1991-1992 old states including Berlin; since 1993 whole of Germany

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

2.2. Distribution according to age group and sexes

As diagram 2 shows, when crime suspects are viewed in their various age groups, the non-Germans are seen to have different shares in the different groups. This ranges from a 17.7% share in the children's age group to a 24.6% share in the adult group. The juveniles have a share of exactly 17%, whereas the figure for young adults was over 20.9% in 2004.

**Diagram 2: Suspects by age and nationality
(whole of Germany, 2004)**



Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

These findings would have a greater validity if they could be compared with the shares of non-Germans in their respective age groups of the general population. For example, we know that of the 7.3 million foreigners who were registered as part of the resident population in 2004, 13.5% (983 000) were children, 5.1% (369 000) were juveniles and 3.9% (286 000) were young persons. But from these figures it is not possible to come to any serious conclusion on the level of incrimination and the numbers of criminal suspects in these age groups in relation to the same age groups on the other parts of the population. We only have such figures for the Germans. And the figures for the different age groups are not so very different from the figures as is often said (children 13.7%, juveniles 4.7%, young persons 3.4% of the entire German population).

Table 2 offers further insight into criminality according to age group and the non-German proportion of registered criminality. In this comparison between German and non-German crime suspects there is a similar distribution of criminality over the various age groups. But what is noticeable is that, in fact, within the age groups of German crime suspects, the younger age groups represent a relatively higher percentage of crime suspects (children 5.2%, juveniles 13.4%, young persons 10.8%) than the comparable groups of non-Germans (3.2%, 9.2% and 9.6% respectively).

Table 2

Suspects differed by age				
Age group	German		Non-German	
	Number	%	Number	%
Total	1.837.283	100,0	546.985	100,0
Adults	1.297.107	70,6	423.770	77,5
Young adults	198.265	10,8	52.269	9,6
Juveniles	246.679	13,4	50.408	9,2
Children	95.232	5,2	20.538	3,8

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

With respect to the age group of juvenile crime suspects, the group we are particularly interested in, the absolute figures, listed in table 3 and illustrated in diagram 3, show that since 1994 there has been a drop in the numbers of registered crime suspects in the non-German group, whereas in the 90s there was a rapid increase in the number of registered crime suspects in the German group, the reverse trend. Nevertheless, the German numbers have shown only minor changes since 1997.

Table 3

Year	Juvenile suspects (whole of Germany)						
	Total	Percentage of total number of suspects	Germans	Percentage of total number of German suspects	Non-Germans	Percentage of Non-Germans in the Total	Percentage of total number of non-German suspects
1985	147.173	11,4	121.901	11,5	25.272	17,2	10,9
1990	141.244	9,8	97.519	9,2	43.725	31,0	11,4
1991	139.709	9,5	95.630	9	44.079	31,6	10,9
1992	151.103	9,6	101.416	9,5	49.687	32,9	9,8
1993	207.944	10,1	150.651	11,1	57.293	27,6	8,3
1994	223.551	11,0	170.217	11,9	53.334	23,9	8,7
1995	254.329	12,0	199.027	13,1	55.302	21,7	9,2
1996	277.479	12,5	218.350	13,8	59.129	21,3	9,5
1997	292.518	12,9	230.469	14,1	62.049	21,2	9,8
1998	302.413	13,0	240.400	14,2	62.013	20,5	9,9
1999	296.781	13,1	237.909	14,3	58.872	19,8	9,8
2000	294.467	12,9	238.990	14,1	55.477	18,8	9,4
2001	298.983	13,1	245.746	14,4	53.237	17,8	9,4
2002	297.881	12,8	246.643	14	51.238	17,2	9,0
2003	293.907	12,5	244.098	13,6	49.809	16,9	9,0
2004	297.087	12,5	246.679	13,4	50.408	17,0	9,2

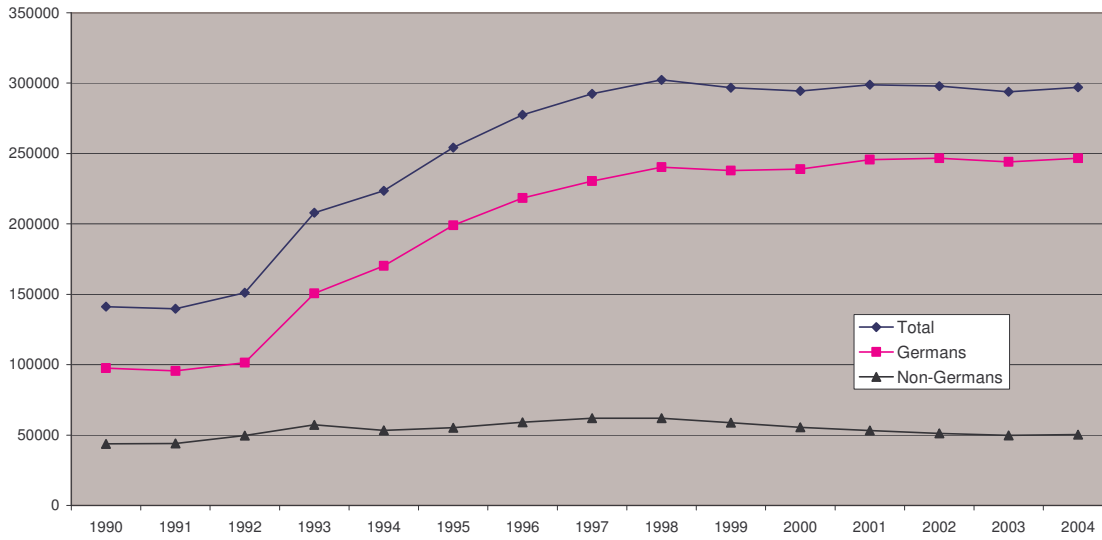
Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

These tendencies are confirmed by the findings shown in diagram 3a. There you can see the percentage of Non-Germans within the age group of the juveniles and of the young adults. The percentage within the group of the young adults has reduced since the early 90s from 42% to 20.9%. And the reduction concerning the juveniles from 27.6% to 17% is evident too.

Diagram 3b points out a further differentiation with regard to the gender factor. Sex has a meaning at least within the group of the juveniles. Within this group you can see a gender-specific difference of more than 5 % in the years 1997 to 1999, which is remarkable (e.g. in 1997 22.6 % of all juvenile males were Non-Germans

but only 17.5 % of all juvenile females were Non-Germans). On the other hand the percentage of foreign females within the group of the young adults does hardly differ from the percentage of the foreign males.

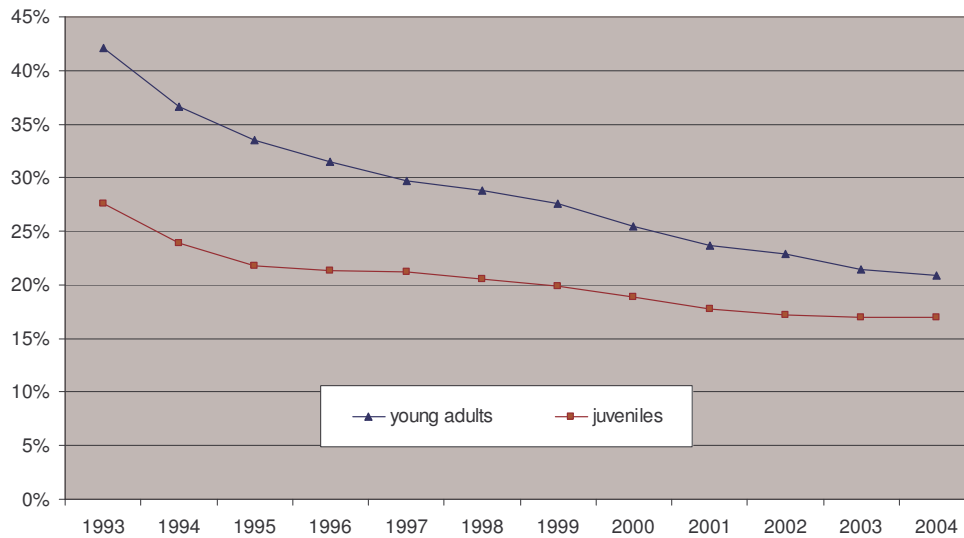
Diagram 3: Development of Non-German juvenile suspects (1990-2004*)



* 1990 old states; 1991-1992 old states including Berlin; since 1993 whole of Germany

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

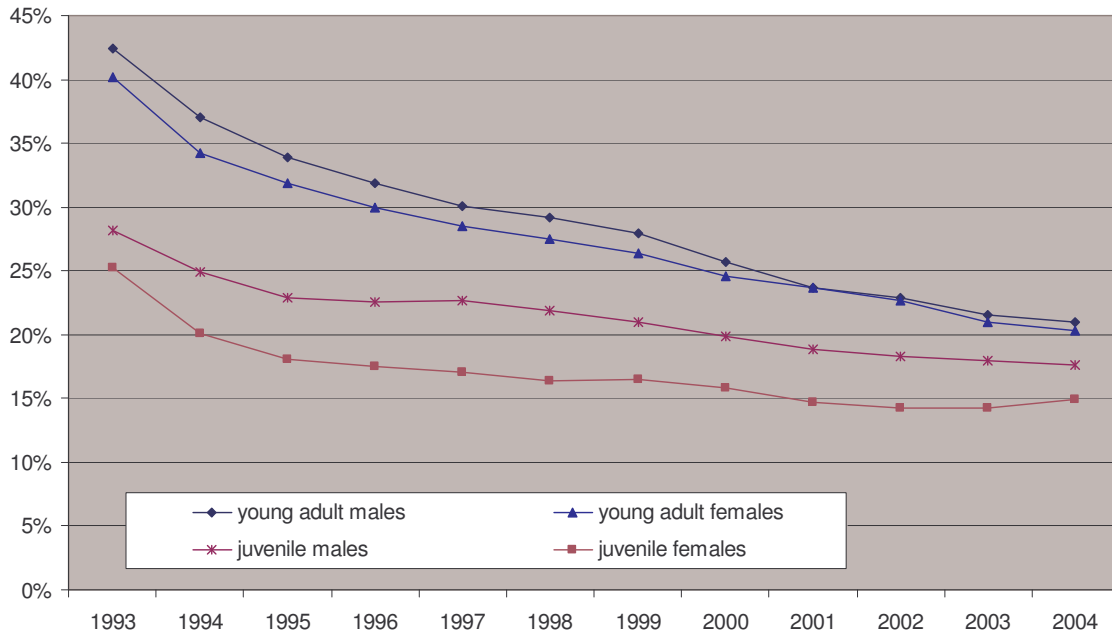
Diagram 3a: Rate of Non-German suspects - juveniles and young adults (1993 - 2004*)



* Whole of Germany

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

Diagram 3b: Rate of Non-German suspects - juveniles and young adults differed by sexes (1993 - 2004*)



* Whole of Germany

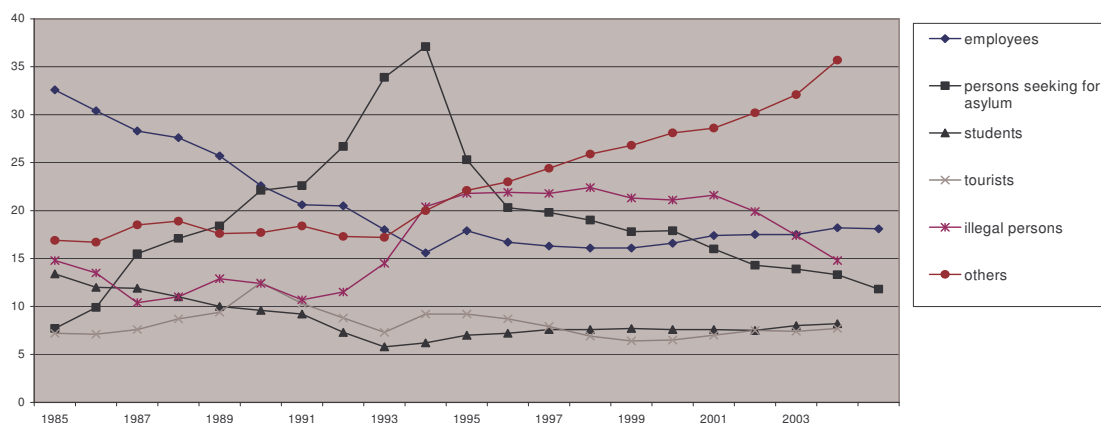
Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

2.3. Non-German crime suspects differentiated according to residential status and nationality

The development of the crime figures in the light of residence status is interesting. The way the crime figures are distributed between the different groups has changed considerably. As explained in the introduction, there have been larger numbers of foreigners resident in Germany since the 1960s, at first as "guest workers".

As can be seen from diagram 4 until the end of the 80s by far the largest number of foreign crime suspects came, correspondingly, from this group. In 1990 for the first time the proportion of asylum seekers in this group (22.6%) exceeded that of foreign workers (20.6%). In 1993 at a considerable 37.1%, the asylum seekers made up the largest number of non-German crime suspects altogether. The obvious reason for this shift in numbers is the changes to the law on asylum in 1993, which simultaneously led to a drastic reduction in the numbers of asylum seekers (from 438 200 in 1992 to 322 600 in 1993 and 127200 in 1994). However this change led in turn to a recognisably marked increase in the number of "illegally resident" crime suspects. These were mostly people who stayed on in Germany after their request for asylum had been rejected. Since this time most of the non-German crime suspects are to be found in the group "other". Alongside rejected asylum seekers, whose residence in Germany is now frequently tolerated in accordance with the Law on Foreigners, this group is largely made up of dependants of foreign workers. More than a third of all non-German crime suspects (35.7%) come into this umbrella category. The proportion of non-German schoolchildren and students is interesting because at least it contains in part figures for the juvenile and young persons' age groups. Their share is largely unchanged since 1987 and most recently reached its highest level of 8.2%. The second highest share is that of non-German workers, which was 18.1% in 2004.

**Diagram 4: Development of non-German suspects differed by status of residence
- (1985-2004*) -**



*1985-1990 old states; 1991-1992 old states including Berlin; since 1993 whole of Germany

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

The picture is completed by findings related to the nationality of non-German crime suspects. According to table 4, 24% of all non-German crime suspects are Turkish citizens. This has to be seen in the context of a 1.9 million Turkish citizens population which, makes up 25.6% of the total number of foreign residents in Germany. They are followed by Serbs, Poles and Italians. It was the special position of the Turkish population that gave rise to the separate examination of the problems they face which is undertaken in this evaluation (see Section E.).

Table 4

Non-German suspects differed by nationality				
Nationality	Recorded crimes			Percentage of non-German suspects excluding breaches of Aliens Act and Asylum Procedure Act
	Total number of recorded crimes	Recorded crimes concerning breaches of Aliens Act and Asylum Procedure Act	% - relation column 3 to column 2	
Turkey	117.613	12.124	10,3	24,0
Serbia	44.737	8.909	19,9	8,2
Poland	36.580	6.296	17,2	6,9
Italy	27.561	525	1,9	6,2
Russia	17.572	4.955	28,2	2,9
Romania	14.156	6.429	45,4	1,8
Ukraine	12.486	6.481	51,9	1,4
Iraq	11.252	2.523	22,4	2,0
Greece	11.180	269	2,4	2,5
Bosnia	9.855	1.444	14,7	1,9
Vietnam	9.306	3.393	36,5	1,3
Croatia	9.115	982	10,8	1,9
Morroco	8.623	1.213	14,1	1,7
Iran	8.520	1.339	15,7	1,6
Lebanon	8.385	1.141	13,6	1,7

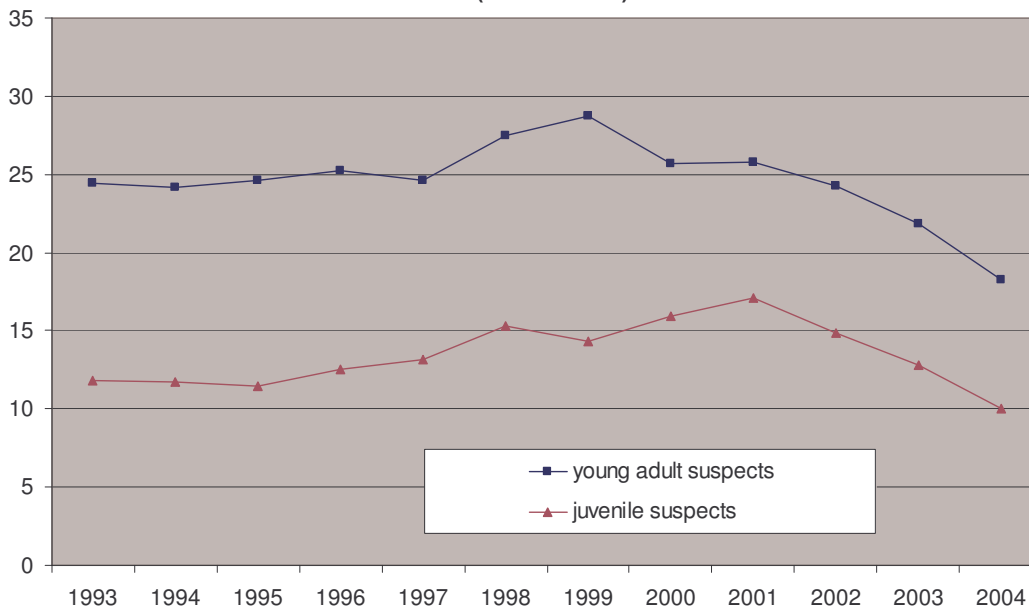
France	8.362	192	2,3	1,9
Bulgaria	7.685	4.698	61,1	0,7
China	7.545	5.023	66,6	0,6
Austria	6.363	169	2,7	1,4
Algeria	6.075	1.931	31,8	0,9
USA	5.852	187	3,2	1,3
Afghanistan	5.789	1.342	23,2	1,0
Netherlands	5.652	194	3,4	1,2
others	146.721	36.451	24,8	25,1

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

2.4. The offences of the non-German crime suspects

When non-German registered offences are examined in the police crime statistics (PKS), there are particular focuses.

Diagram 5: Rate of breaches of Aliens Act and Asylum Procedure Act within the groups of Non-German juvenile and young adult suspects (%) (1993 - 2004*)



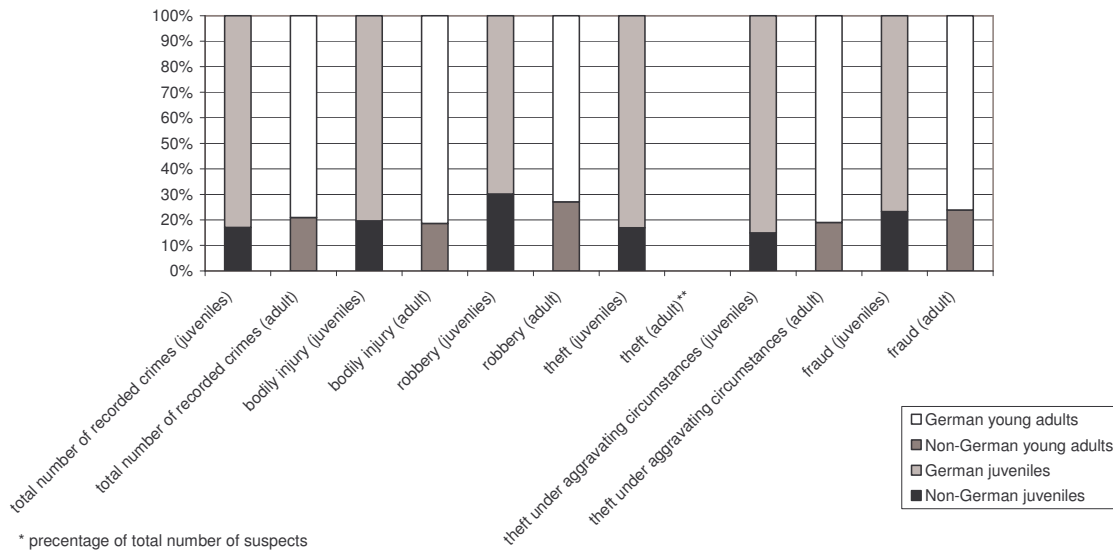
* Whole of Germany

Source: own calculations on the basis of the 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

From diagram 5 we can see the meaning of violations of the Law of Foreigners. Within the age group of the young adults these specific offences in the late 90s reached the amount of almost 30% of all reported offences. With a percentage of 17.1% in 2001 the highest level within the group of the juveniles has been reached. Now in this group the percentage has reduced to 10%.

Diagram 6 continues to differentiate and break down the specific offences in relation to the non-German juvenile and young adult age groups. Excessively high shares are recorded, especially in the case of robbery. But it should be noted that robbery is an offence that is concentrated in the young age groups in general, not just in the foreigner age groups. 55.4% of all those suspected of robbery in 2004 were under 21, making robbery the particular mark of violence in young people. Stripping their contemporaries of their mobile phones or sought-after fashion items are often the crimes in question.

Diagram 6: Suspect rate of non-German juveniles and young adults differed by offences* (whole of Germany, 2004)



* percentage of total number of suspects
 ** missing value

Source: 2004 police crime statistics, published by the Federal Police Office, Wiesbaden

2.5. The additional information sources in the criminal law system

Police data only offer a limited insight into the way criminality is handled by the system of criminal law. The view needs to be widened by findings concerning the process of sanctioning.

Putting together all sanctions, formal and informal, the conviction statistics for 2003 (the most recent differentiated figures available) show the following distribution:

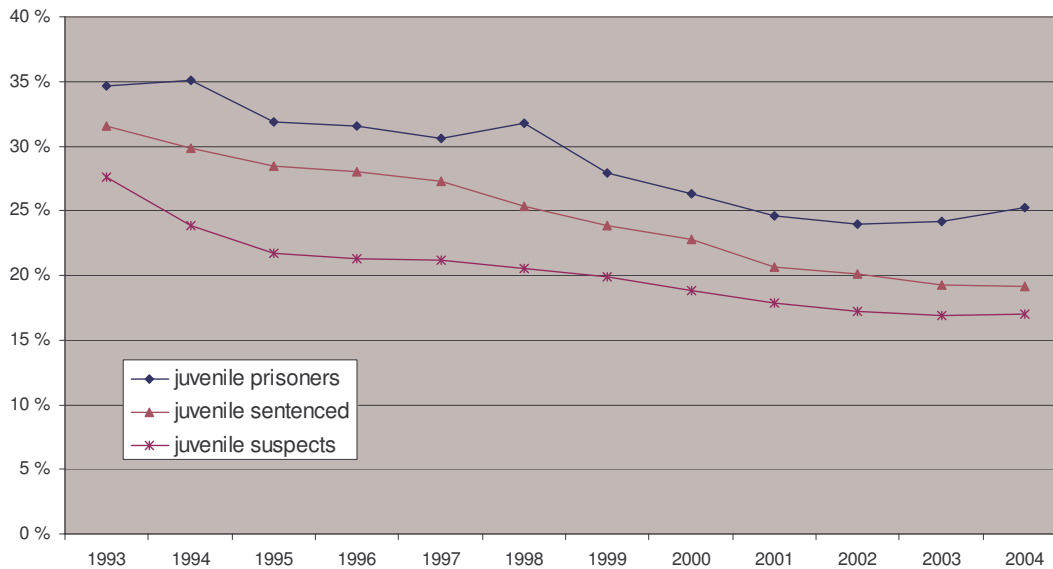
There were 327 600 decisions under the JGG, of which

- 226 100 were for the diversion procedure (Secs, 45,47) = 69%;
- 101 600 were formal sanctions = 31%;
 of which
 - 77 300 were disciplinary measures = 76.1% of the formal sanctions,
 - 7000 were rulings for educative measures (particularly directives - also NAM) = 6.9%,
 - 17 300 were youth imprisonment = 17% (10 600 with probation and 6 700 without).

According to this overview more than two thirds of all legal proceedings were conducted using informal channels. Disciplinary measures dominate the formal sanctions, being a good three quarters of all sanctions. In this instance it was mostly the ordering of work duties and the sentencing of offenders to short-term detention. The directives favoured by criminological research were very seldom used. Which individual measures there were cannot be seen from the conviction statistics. As there is no suitable differentiation made we have no concrete figures on the number of new ambulant measures that were ordered. Looking at the other end of the range of sanctions, 6.6% were youth custody.

But these data do not allow a differentiation between Germans and Non-Germans. With this regard diagram 7 widens the perspective by data from the conviction and the prison statistics.

**Diagram 7: Relation Non-German juvenile suspects / Non-German juvenile sentenced and Non-German juvenile prisoners* (%)
(whole of Germany 1993 - 2004)**



* percentage of total number
own calculations on the basis of official crime statistics

In this, for a period from 1993, the numbers of non-German juvenile crime suspects were compared with the numbers of non-Germans juvenile sentenced and juvenile imprisoned. All three curves tend to fall down to an amount of 10% or even more. On the other hand it is noticeable that the percentage of the non-German juveniles rises through all three stages of the control process in criminal law. In 2004 17% of the juveniles were under police suspicion, 19.1% take part into the subsequent sentencing and finally 25.2 % have been imprisoned. This could be interpreted as control process to the debit of non-German juveniles. But to be realistic you have to consider that only a little number of juveniles were send to prison.

Besides this the proportion of non-Germans on remand is particularly high. This is 36% on average with regard to the younger age groups. They are usually detained on remand pending trial because of fears that they will abscond.

D - ANALYSIS OF THE “FOREIGNERS CRIMINALITY” WITH REGARD TO STRUCTURAL DISADVANTAGES

The following comments serve to find the reasons of the over-representation of foreigners especially of the minors. Structural problems concerning the way of dealing with “foreigners’ criminality” should be brought out. Findings of criminological research and further statistical information shall widen the perspective as well as criminological interpretations will do.

1. Structural disadvantages as determinant subject of the discussions

Even though there is no consistent theoretical concept of discrimination with regard to the over-representation of young foreign offenders. But in the field of criminology people are agreed that the first impression that is obtained from analysis of the findings based on official sources, in particular the police crime statistics (PKS), has to be filled out. Accordingly, certain distortion factors have to be checked as comprehensively as possible so that the delinquency of Germans and non-Germans may be compared. Those reflections deal with aspects of social control (by the people and by the police) and they deal with the social participation of foreigners in Germany as criminogenic context. Thus, those factors should also be included that are indicators of the special migration situation. Criminological discussions right from the beginning of the perception of “foreigners’ criminality” adopted a social-problem-perspective. From this point of view there is a kind of tradition in reflecting discrimination and prejudices as attendant circumstances of the migration.

Criminologists do not agree, however, in the conclusions they draw from these distortions. Some have assumed that in the end there is nothing left of the non-German's excessive weighting (thus Geißler/Marißen 1990, 663 ff.; Geißler, 2004 21ff.: Mansel/Hurrelmann 1998, 78ff.), whereas the overwhelming opinion of most criminologists assumes that, in recording account should be taken of this extra weighting though this was markedly less than statistics indicate. (This was the opinion on the First Periodical Security Report, 2002, 316; Schwind, 2006, 467ff.; Walter/Pitsela 1993, 6ff.). This of course includes the possibility that foreign minors are over-represented in reality (see below the findings of Pfeiffer and Wetzels, 2000).

2. The distortion factors

A special evaluation of the police crime statistics for the state of Bavaria by the Bavarian state criminal authority has presented the influence of the different filters graphically. First of all a round 4.9 times greater extra weighting was established for non-Germans as opposed to Germans on average, taking in all crime suspects. This value was reduced as follows:

- Applied to crime suspects registered in Germany the value was now only 2.7% greater.
- If crimes specific to being a foreigner were excluded (see 1a above) the weighting was now 2.4 times greater.
- If it was only the comparable groups of male crime suspects that were being focussed on the weighting was reduced to 2.3 times.
- If it was the group of juveniles and young persons that was being examined, the value was only 1.9 times, (on all this, see the First Periodic security Report, 2002, 313f.).

With this list we have not reached the end. Criminological research distinguishes between the following distorting factors:

- Effects specific to the offence,
- Demographic effects (regarding age, gender, place of residence),
- Social and socialisation differences (regarding class, upbringing, education, training and job status),
- Differences in reporting behaviour;
- Different styles of controlling by the police;
- Different styles of using criminal law by the court and the social agencies (sanctioning and executing sanctions).

You have to consider that the influence of these factors – different from specific designs of single criminological projects – can not directly be connected with the number of reported crime of foreigners. Therefore the following aspects have intentionally been separated from the findings of the police crime statistics (see above C.2.). But these factors are able to qualify our knowledge.

2.1. Effects specific to the offence and administrative aspects of discrimination

You can refer back on this to the breakdown in C.2.1. and C.2. above, according to which one fifth of all reported non-German crimes consist of violations of regulations on foreigners' rights. There we have also got to know that at least 10 % of all offences of foreign minors fall to those violations.

Critics point to a systematic connection of the system of administration and the criminal law. Because they refer to criminal law the expulsion rules in sec. 53 ff. AufenthG were called as a second system of intervention focussed on criminal law. It has been claimed that this leads to a factual aggravation of the concerned persons' situation, as they are subjected to a double control (Schmülling/Walter, 1998, 313). And with regard to the specific offences there is a kind of symbiosis of criminal and administrative law.

2.2. Demographic effects

There are a large number of factors that converge, which prove to be peculiar to the migrant population (Schwind, 2006, 467ff, 482f.).

2.2.1. Concentration of crime in the cities

80% of migrants live in German towns with more than 100 000 inhabitants. They move into particular parts of the city or housing areas with cheap rents (the so-called filtering down process, see Schwind 2006, 499f.) and thereafter form more or less closed ethnic ghettos, which in turn consolidate other problems (e.g. language problems). In 2003, in the city states of Berlin, Hamburg and Bremen, the proportion of migrants was between 13% and 15% and had reached between a fifth and a quarter in some cities (e.g. Mannheim, Frankfurt Main and Munich, thus the 12th Federal Report on Children and Juveniles, 2005, 87). Certain districts in Berlin, Hamburg and Duisburg have migrant levels of considerably more than 30% in part. Levels of criminality are however generally higher in cities. Thus criminality is overwhelmingly a city phenomenon which migrants are increasingly affected by (see Villmow, 1999, 22f.).

The proportion of non-German crime suspects according to this reaches its highest levels in the large cities and conurbations (Eisner 2001, 3ff., 6f.). A special evaluation of police records in Munich revealed. For example, that in 1995 just Turkish and former Yugoslavian juveniles together made up circa 50% of the suspects in cases of criminal violence. In cities with a population of more than 200 000 the police crime statistics record the share of non-German crime suspects in the total crime figures (PKS 2004, 86). Non-German crime suspects have the highest share, at 57.5%, in the crime figures in Frankfurt Main. In the juvenile age group the share is 49.4%, and in the young persons' age group, 55%. Munich lies in second place with a 43% non-German share in the total crime figures, in the younger age groups these figures break down to juveniles - 37.6% and young persons - 44.4%. In Erfurt, on the other hand, the non-German share in the total crime figures was 8.4% in total.

The other general finding is connected to this: in the new federal states there are low non-German crime suspect rates of less than 10% in some states (Thuringia, Saxony Anhalt and Mecklenburg- West Pomerania). Very few foreigners live in these states. Therefore, this is generally a West German issue. This is interesting in the context of understanding social problems and the integration process, because it is precisely in the new federal states that there has been a spate of anti-foreign incidents. Not to put to fine a point on it, there we have the paradoxical situation of anti-foreigner feeling and practically no foreigners.

2.2.2. The meaning of age and sex

Migrants are on average younger than the German population. However, the differences are currently smaller than people thought (see C.2.2. above). It is assumed, however, that in the group of illegal residents people are particularly young. One of the basic findings of criminological research is that delinquency decreases with age. This "youth phenomenon" has, therefore, a particularly intense effect in the migration group.

Migrants are male for the most part. 52% of foreigners are men, whereas the proportion of German males in 2004 was 48.6%. In Germany this goes back to the time of migration for work when it was mainly male workers who came to Germany. Since criminality is a male dominated behavioural pattern in the first place, there are concentration effects in this instance, too.

The statistics showed us that foreign females within the age group of the juveniles are less represented than foreign males (see C.2.2. above). Besides that the meaning of gender-specific roles will be considered in the context of child raising norms (see D.2.3.3. below).

2.3. Social effects

The situation of migrants is marked by a large number of social problems, which often affect precisely the young migrant population with particular intensity. Singly these problems include school, language and child raising problems, poor vocational training opportunities and a high level of unemployment.

2.3.1. School and language

Native-born Germans and immigrants show different levels of the skills required for a German school education. The lack of "integration into school life" is obvious. 22% of all fifteen year olds come from a migrant background. But the situation is very different in the individual states because of migrant distribution. In the new federal states 10% of the 15 year olds are of migrant origin, in the other states this share ranges between 17% (in Schleswig-Holstein) and 36% (in Bremen). The 12th Federal Report on Children and Juveniles (12.KJB, 2005, 631) compares, for example, the ratios of 15 year old children in "Hauptschule" on the one hand and "Gymnasium" on the other (the bottom and top of the ability range respectively) differentiating between the migrant categories of fifteen year olds in these schools:

- no migrant background (both parents born in Germany) - 35% Gymnasium/19% Hauptschule
- one parent born abroad - 28%/22%,
- first generation (juveniles born in Germany, parents in another country) 12%/44%,
- migrant families (juveniles and parents immigrated together) - 16%/33%.

For young people with a migrant background access to higher education and training, which is dictated by the educational standard achieved, is only half that of the comparable group with no background. Juveniles of the first generation are evidently at a special disadvantage. The additional findings of the report on the subject of school leaving certificates are interesting, although only a general distinction between foreigners and Germans is made. For the children who finished school the following levels of certification were recorded (12. KJB, 2005, 81):

- no school leaving-certificate- 7.9%German/19.2% foreigners,
- with a Hauptschule certificate - 24.5% German/41.6% foreigners
- with Abitur (certificate plus immatriculation) - 24.8%/8.9%.

Thus almost one fifth of the young foreigners ended up without a school-leaving certificate. Along with those who only had a Hauptschule certificate, it meant that 60% of young foreigners left certification that was sufficient to qualify them for vocational training. In comparison, the number of under qualified Germans, at about 32%, was approximately half this. In contrast to this we have the Abitur group in which German young people reached immatriculation level three times more frequently than migrants. The survey on integration, conducted by the Federal Institute for Population Research (BiB), noted, for instance, that Italians with a German passport had reached immatriculation level significantly more often than the comparable Turkish group, and approximately as often as autochthon students.

The ability to integrate that migrants living in Germany have is often connected to their knowledge of the language, because this is the basic skill that first allows them to take part in German industry and society. As already described, German law has already recognised the importance of this ability and in articles 43ff. of the Law on Foreigners (AufenthG) has legislated for their participation in integration courses, partly as a requirement and partly on a voluntary basis. The 2003 PISA supplementary survey, which contains a special assessment of the German situation, offers more detailed information on the language ability of foreign school students. In looking at the integrative function of language, it had investigated, i.a., how often students from migrant families used German in their daily lives. The findings show that about half of them used German in their daily lives (German speaking migrants). By contrast, some 30% speak another language just as often as German (bilingual immigrants). A comparatively smaller number, between 10 and 16%, uses a language other than German more frequently (foreign language speakers). It is interesting to note that in the families with a migrant background the young people who have one foreign born parent have the best German language skills, approaching those of young people without a migrant background, and their language ability is significantly better than that of migrants with two foreign-born parents. This applies particularly to migrant children born in Germany (PISA- E 2003, 33).

Poor German language skills are found among young Turks and young ethnic Germans who have migrated from the former USSR. Although the young Turks, in particular, were often born in Germany, they seldom use German (PISA-E 2003, 34).

2.3.2. Job training and integration into the workforce

It is extremely difficult for someone with inadequate German language skills to get a training place. This explains why some 40% of young migrants have not completed a job training programme. The proportion of foreign job trainees has sunk to 7% from 10% in 1994, (thus, Schwind, 2004, 492).

Migrant deficiencies are reflected in the labour market. Thus, for example, according to the categories used by the Federal Statistics Office 2002, 19% of the unemployed were foreigners, but "only" 11% were German. The level of unemployed in the under 25 age group was about twice as high in each case. The latest figures revealed that 40% of young migrants were unemployed and 20% of young Germans. At the end of 2002, social assistance was paid to 13% of foreign children and juveniles, which was about 7% higher than payments to the comparative German group (12. KJB, 2005, 82f.). The Centre for Turkish Studies in Essen has just recorded that about 35% of Turks living in Germany have incomes that are below the poverty level, and another 35% live just above the poverty level.

2.3.3. Child raising norms

In addition to the findings of the official statistics, it is possible to refer to criminological research into the hidden crime figures. There are some effects that official statistics can not show. The examination carried out by Pfeiffer and Wetzels (2000) into the connection between the style used to bring up children and later crimes of violence is particularly interesting.

In nine German cities - including Hamburg, Munich, Stuttgart, Leipzig - approximately 16 000 school students in the ninth class (aged 15 and over) were asked about their experiences as perpetrators and victims. The findings show a strong correlation between being part of a violence-oriented social group and later perpetration of acts of violence.

The investigation came to the conclusion that it is young Turks who are particularly affected. According to their own admissions, 100 Turkish youths committed almost three times as many acts of violence per year as young Germans of the same age (Pfeiffer/Wetzels, 2000, 14). This was particularly true of frequent users of violence (so-called high-risk offenders – this category also exists in the police crime statistics, but there is no differentiation between Germans and Non-Germans) who had committed more than five acts of criminal violence in the previous year. Young Turks in contrast to the young Germans were over-represented three times here (Pfeiffer/Wetzels, 2000, 15). The school students were also asked if they had been victims of extreme acts of parental violence when they were younger, or in the last year, and also whether they had witnessed acts of violence between their parents in the previous 12 months. About 23% of Turkish students had been subjected to

violent abuse at home. The figure for German students was only 9%. Over the childhood years up to age 12, it was about 35% (for the Turks) and 19% in the comparable German group. There were similar differences in acts of violence between parents. The conclusions of the student survey were that children subjected to violence were one and a half to three times more likely to use violence themselves as children who had not been subjected to physical punishment. The more intense the violence suffered and the longer its duration, the higher the level of violence used. It is interesting to note the finding that it is not a question of short term behavioural patterns, which could be described as odd incidents and due to a migration situation that was fraught with conflict, but it is obviously a matter of ingrained behavioural patterns affecting especially some immigrants who have been resident in Germany over a long period, since it was young migrants born in Germany, who, in the previous year, had been subjected to the largest number of acts of violence.

The investigations also revealed that there were gender-related aspects to socialisation. Male juveniles were most likely to be victims and perpetrators. This accords with the findings on the acceptance of violence - both as regards ethnical and gender - related acceptance. Foreign Turkish males accepted a high level of violence as normal behaviour, followed closely by Turks who had German citizenship and ethnic German migrants from the former USSR. The rate of violence that was acceptable as normal behaviour was much lower for females, but young Turkish female juveniles were still higher up the scale in their acceptance of violence than their ethnic German migrant counterparts.

In a continuation of the student survey, Pfeiffer and Wetzels have also established a correlation between media consumption and a readiness to resort to violence - this was concerned mainly with intensive use of computer games and long hours in front of the television. This finding applied particularly in the case of young male Turks. Here is another area of child raising which allows the readiness to resort to violence to have a free, uncontrolled run.

2.4. Selective behaviour in reporting offences

The reporting behaviour of the population is, in fact, the decisive interface, because this is where official crime and hidden crime meets, and because we have reasonably reliable information that almost 90% of criminal investigations are set in motion by members of the public (victims and / or witnesses) who report crimes; whereas only 10% of these investigations are actively taken up by the investigating authorities in the course of their crime surveillance checks (Kaiser, 1988, 486.).

The native population more frequently brings charges against allochthons. This is a reproach that criminologists have voiced, raising the debate to another level of social disadvantage for foreigners. There are various studies of unreported crimes and of crime victims that prove that native Germans prove that native Germans bring charges against foreigners, particularly juveniles, more frequently than against Germans. According to the investigations made by Mansel and Hurrelmann (1998, 78ff.), only every sixth German student in the seventh and ninth classes who has committed at least one violent offence or property offence was registered with the police, whereas in the case of migrants it was every second offender. A further study by Mansel, Suchanek and G.Albrecht (2001, 288, 293f.) showed that after a crime has been committed the ethnicity of the supposed offender was the most important factor in deciding whether victims or witnesses report the incident to the police. The probability that they would press for charges against a foreigner was twice as high as against a German. The way of thinking that leads to this is that law and order has to be kept, but it is hostility to foreigners that supplies the motive for this behaviour.

There are similar findings respecting the asylum-seeker group. The readiness of victims to press for charges and of the police to investigate and prosecute is greater than it is in the case on non-asylum seekers. (see Althoff/de Haan, 2004, 463ff., 449.) In addition to violations of the Law on Foreigners, the offences in question are minor, such as shoplifting. By contrast, crimes of violence are mostly directed against asylum seekers who share their accommodation. These acts are to be attributed as much to the situation they find themselves in as to ethnic hostility. Goffmann has described this as the "total institution" situation (Goffmann, 1961).

2.5. Different styles of controlling

The official role of the police in this situation is to note crimes reported and to investigate crime. The police role is by no means passive. How ready the police are to listen to reports depends, according to criminological surveys, on the kind of offence. They respond readily to offences against property and assets, but are more likely to be hesitant in cases of offence against the person. These offences are often labelled "a private matter" when they take place in the immediate familiar environment (Walter, 2005, 238). Police reluctance to act is even greater when there are injuries, e.g. cuts and bruises, in fights between members of social fringe groups (between vagrants, drug addicts and also certain migrant groups: c.f. Hanak/Stehr/Steinert, 1989, 144f.).

Turning to the relatively more proactive police efforts to control delinquency, we see that these are concentrated on different social "hot spots", where juveniles from the lower classes collect (certain public squares, clubs

where drug dealing takes place, places of entertainment). In making the necessary presumption of criminal activity, and in forming their suspicions, the police officers concerned are guided by their own ideas of criminology and, definitely also, by their own particular prejudices (Feest/Blankenburg, 1972; also Villmon, 1983, 323ff., 329.). To what extent such self-fulfilling prophecies determine in end effect the types and extent of "foreigner criminality" obviously cannot be measured using the findings available.

2.6. Different styles of using criminal law by the court and the social agencies (sanctioning and executing sanctions)

2.6.1. Differences concerning the process of sanctioning

There are different empirical studies – partially of an older date – that have discussed discrimination issues concerning non-Germans in the legal control process. The first study with this approach by Blankenburg/Sessar/Steffen is now almost thirty years old (1978). It did not find any discrimination of non-German perpetrators in the handling of proceedings by the Offices of the Public Prosecutor. Some more recent studies conclude that German suspects are charged more often than non-German suspects. Geißler and Marißen (1990) in their research distinguish between nationality and school education and found that – within a given category of crime - fewer public charges were filed against young foreigners than against Germans living under similar social conditions. In addition, they found that the ratio of proceedings discontinued was significantly higher amongst non-German suspects than against German suspects. However, according to these findings, where they were formally sanctioned, foreign juveniles were punished more severely than German ones, i.e. they were less frequently given "light" means of correction such as cautions (Verwarnung) and fines. Instead, they were more often liable to be sanctioned with juvenile detention (Geißler/ Marißen, 1990, 673 f.). Steitz (1993), who researched the progression of 250 cases of homicide in six large German cities, also observed that Offices of the Public Prosecutor dispensed criminal proceedings more frequently, but also that courts passed more lenient sentences vis-a-vis foreigners (Steitz, 1993, 265).

In this context it must be pointed out that the German Higher Courts take into consideration the special views and moral concepts of foreigners under the keyword "honour murders". For example, this holds true concerning murder for base motives under sec. 211 StGB. However, a certain shift in the way motives are taken into consideration has taken place. While even in 1980, the Federal Court of Justice (BGH) still ruled that a case of hurt feelings of family honour amongst Turkish citizens did not constitute murder (BGH NJW 1980, 537), nowadays the ideals of the domestic take a more predominant position. The moral concepts of an immigrant are only considered in exceptional cases, where the motives in that specific case were particularly predominant (BGH NJW 1995, 602 and BGH NSStZ 2002, 369). At the moment such a case of "honour murder" has got a lot of attraction by the media.

Concerning sanctions imposed by courts, only few of the many studies have so far been able to discern a discrimination of foreigners. In the study by Albrecht/Pfeiffer/Zapka(1978), a discrimination of young foreigners is made out for the lower area of crime. The reason given for this is that the primarily educationally oriented measures that are mostly concerned here would require the possibilities to understand and communicate closely with the young foreign students and their families, which is not possible for the most part (Albrecht/ Pfeiffer/ Zapka, 1978, 280, 282). In the upper area, however, it is claimed that juvenile judges treat young foreigners more mildly, in order to prevent their expulsion. The newer study by Hupfeld (1999) however concludes that the sanctions against young foreigners are higher than those against Germans in the case of simple theft. Albeit, this is not due to their status as foreigners, (in this sense also concerning burglary Dittman/Wernitznig, 2003, 195) but due to their have longer criminal registers (Hupfeld 1999, 250). In part, it is also pointed out that a basis for stricter sanctions can also be the ruthless manner in which the act is committed (Delzer, 1999, 304ff, 338).

According to Ludwig-Mayerhofer/Niemann (1997), who do not only compare German and non-German delinquents but also make distinctions within the foreign population, a more strict sanctioning of persons from outside the EU may be observed. Especially, Turkish and 'Yugoslav' juveniles are sanctioned more severely. Amongst others they explain this discrimination with stereotypes that are perceived differently but only in the relation between Germans and non-Germans, but also between different foreign nationalities (Ludwig-Mayerhofer/Niemann, 1997, 41, 45). Finally, the study by Brakhage/Drewniak (1999) also deserves attention. According to this study, foreign suspects are not involved as much in new ambulant measures and diversion rules. The communication problems already named by Albrecht/Pfeiffer/Zapka are given as the reason for this discrimination (Brakhage/ Drewniak, 1999, 75, 98f.). Finally, it was observed that investigative custody was ordered more frequently in cases concerning immigrants without a German passport (Villmow, 1995, 161).

In sum, the above analysis observes no obvious or only punctual discrimination of young foreigners arising from decisions by the judiciary. This corresponds with the tendencies shown above (see C.2.5.).

2.6.2. Structural problems concerning the execution of educative measures

The execution of the "new ambulant measures" (NAM) gives example of structural problems and conflicting competencies within the system of sanctioning minors.

2.6.2.1. Cooperation and conflicting competencies

As already described in the previous section, there is a two track legal structure in Germany that distinguishes between youth supervision (through the JGG) and youth welfare (in the KJHG). There have been several attempts to standardise this area (e.g. through the draft discussion paper of 1973 for a uniform youth welfare law). These attempts were unsuccessful, however. Therefore, so far it has not been possible to create compatible sets of provisions with which to react to the aberrant behaviour of juveniles.

While juvenile courts impose the new ambulant measures juvenile welfare is solely responsible for carrying out those measures. In Germany, youth welfare is organised at communal level, whereas the federal states are directly responsible for the administration of justice. Youth welfare provides the various programmes that the judiciary orders for juvenile delinquents. In this provision, according to Art.3 KJHG, German youth welfare is made up of both public services (the youth welfare office) and independent bodies, who in co-operation see that a wide range of the appropriate re-socialisation services is available. In fact, according to Art.4 §2KJHG, youth welfare should be organised mainly by independent youth welfare organisations.

The structures listed for co-operation between judiciary and youth welfare are fragile and open to conflict because they leave various issues open - such as precise areas of responsibility, actual responsibilities, and especially the issue of financing. In 2005 a new article 36a KJHG was introduced regulating the further development of child and juvenile welfare. Accordingly, in future, the "guiding responsibility" for the ordering of youth welfare measures will lie solely in the hands of juvenile welfare. Consequently, youth welfare only bears the cost of those ambulant measures it has ordered or even consented. At the moment the consequences of those new competencies for the offers of new ambulant measures can not be estimated.

Unlike conviction statistics, the Youth Welfare statistics show the number of assistance in education provided. According to the current Youth Welfare statistics, 26100 measures (Social Group Work, education assistance and Care Support together) were undertaken in 2004. Because the statistic does not distinguish between the reason for the measure (JGG or KJHG) and only surveys that it is being undertaken, both orders according to sec.10 par.1. 3rd sentence no.5 and 6 JGG and those under sec.29, 30 KJHG have been included, which in there leaves open the legal contest.

The number of measures has, for example, increased more than tenfold since 1991 (then ca.7900). The share of these measures concerning foreigners is also shown in the statistics. The quota was almost 13% in 2004. Hence, it has successively diminished since 1991, when the share of foreign recipients of assistance was still 16.3% (14.1% in 2000). Here, aside from the discrimination regarding education described above and other deficits concerning social data that are continually deteriorating, a development is emerging that is contrary to the needs for assistance and integration.

2.6.2.2. Perceptions of social development - possibilities for migrant-oriented social education

Youth welfare statistics also show that 59% of social education (15 400 of the 26 100 measures), according to Art.10 §1 s.3,5 and 6 JGG/Arts.29,30 KJHG, was carried out by independent bodies. You have to know that the German labour market for social (youth) workers is very much divided. Alongside the approx. 3000 employees of the social services of the judiciary, there are 36 000 people who are employed in social work in child and juvenile organisations. They are employed in circa. 10 400 organisations (figures for 2002, cf.12th Federal Report on Children and Juveniles, 2005, 633). Nation-wide approx. 60% of these work independently, and approx. 60% of all personnel work for these organisations. In this area of juvenile rights protection, therefore, we are dealing with a form of privatisation, which places a large portion of public responsibility in the hands of independent welfare organisations: these, however, are very far-removed from official state responsibility for youth welfare (see Kubink, 2002, 605ff.). In this sector it is extremely difficult to develop and implement uniform ideas of social development and standards of social education, since, even today, social workers still see themselves largely as individualists. The judiciary attempts to counter excessive individualisation by establishing quality standards, as a minimum programme for checking social work, for their social service employees and those of independent institutions co-operating with them on joint projects.

Although the general picture is very unclear, there are currently a large number of initiatives for "juvenile integration support" which approach the immigration situation in Germany realistically. By means of

intercultural qualifications for their employees, but also by opening up the intercultural activities of cultural and other associations, opportunities will be made available for migrants to work on youth welfare committees and expertise will be won for their work with young migrants (See Bundschuh/Jagusch, 2005, 13ff.). Social educators with a migrant background for example are to help with work on social problem situations that they are familiar with. The authors go so far as to speak of a modern "process for organising development".

The actual work with young migrants has also provided plenty of evidence of a migration-specific understanding of social education. The ambulant measures of the JGG, in their role of providing special support for everyday living and as they examine the specific living conditions of young offenders, are targeted directly towards this goal (cf. Hubert/Comin, 1995, 214).

As an example we can take the activities of "Brücke", an independent organisation in Munich. In 1994, after having had up to 40% of young migrants on their existing local youth programmes, they began the project "a new ambulant measure for young foreigners" (see Lorenz, 1995, 200ff.). This project successfully carried out courses of social training. The juveniles who attended were 50% Turkish and 50% of various other ethnic origins. However, one of the important findings was that the project, as conceived, was principally suitable for migrants who already spoke a reasonable amount of German (Lorenz, 1995, 203). This also provided conclusive proof that language is an essential prerequisite for social and educational participation.

The communication problem was handled differently in a Berlin project, where social workers who were foreign language speakers were used (Shehader/Fischer, 1995, 205ff.).

3. Criminological and sociological approaches to finding an explanation

At this point we should interpret the information presented using criminological theories and the wider-framed theories of sociology. It is necessary to get a general view, because a one-sided explanation of "foreigners criminality" with respect to the various facets of the phenomenon seems to be inadequate.

3.1. The classical criminological approach - culture conflict and anomie

3.1.1. Culture conflict theory

The concept of cultural conflict developed against the background of the huge waves of immigration to the USA which lasted to the end of the 1920s. The American sociologist, Sellin, developed the theory (1938) according to which the immigrant is faced with two cultural circles or systems of norms, those of his country of origin and those of the host country. The conflict develops if the two systems contradict each other and thus place different demands on the immigrant. Different cultural traditions and lifestyles may violate the local norms (including criminal norms), if the demands of the new norms are not learnt. This understanding of culture, therefore, places deviant behaviour and criminality under the principle of learning and tradition.

However, we would still expect that it would be the first foreign generation that is affected, because conflict seems the more likely the "fresher" the immigrant's residence in the new cultural circle is (regarding this contradiction, see Schüler-Springorum, 1983, 529ff., 533). Countering this, it could be argued that in the case of older persons the value building process is largely complete and characteristics of isolationist behaviour are more probably what we would expect, since they order their lives according to traditions that they have brought with them.

From this perspective it is more likely to be the younger migrants who, in their identity building and socialisation, are marked by their new environment and who, through contacts in kindergarten and school, and particularly through the influence of their peer groups, are confronted with the local norms. Thus seen, the deviant behaviour of the rising generation is somewhat like a modified parent-child conflict. This is revealed particularly in the prominence of the young Turks, who will be dealt with as a separate topic later (See E. below).

In view of the different degrees of success that the different generations display in conforming to the system of cultural norms of the "host country", Kaiser presumes a linking of the cultural conflict hypothesis and a theory of differentiated socialisation and social control (Kaiser 1988, 599). Through the new experiences and expectations of the children the parent's degree of influence tends to decrease. Young migrants are quite often subjected to an internal family culture conflict and, simultaneously, to the rules of the outside world, in which they are just as little included. In connection with this, we should note the finding in the investigation described above, according to which young migrants may even be the victims of increased parental violence the longer the parents have resided in Germany.

Particularly in the case of the younger groups this approach still seems to contain a certain measure of plausibility today.

3.1.2. Anomie theory

Anomie expresses a social lack or a fringe situation. It describes a state of inadequate social integration in which aspects of social discrimination and disadvantaging, in particular, are viewed as the basis on which delinquency develops. (Merton, 1974, 89ff; Pfeiffer, 1998, 108ff., 127ff.). According to the basic idea of anomie theory, delinquency is based on a discrepancy between general social goals and the means that are available to individuals for the realisation of their demands. Anomie describes, accordingly, a tense relationship between the level of cultural demand in terms of the standard of living and an individual's level of participation in this standard of living. Delinquency, according to this model, is something like compensation for social exclusion. Anomie expresses, therefore, a state of social self help, that resists "institutionalised outcast roles" (P.-A. Albrecht/Pfeiffer, 1979, 105ff., 117) and may lead to a lack of norms.

The current discussion talks, for example, about scenarios of "social disorganisation" (Pfeiffer/Ohlemacher 1995, 178ff., 186) and often, in this context, of new youth poverty. Thus it covers factors that have a particular effect on the foreign population (see D.2.3. above).

The anomie theory is criticised on another score: the comparatively small delinquency rate of the first migrant generation, i.e. the classic "guest worker", is not to be explained by it, because they had to combat socio-economic disadvantages at least to the same degree as the following generations (Gebauer 1981, 83f.). Obviously we have to set against this the fact that the value concepts of the original generation were still largely marked by memories of the modest level of their country of origin, whereas younger people's levels of expectation are certainly influenced by the standards of their German peer group. Less easy to refute is the objection, that an explanation based on anomie theory is only possible if this leads on to an above normal incidence of property and personal enrichment offences. However, migrant involvement in offences of this nature is not remarkable. By Contrast, their excessive involvement in violent offences does not seem to correspond to an anomie approach.

3.2. The behavioural and behavioural-relationship theory approach

Gottfredson and Hirschi, two American criminologists, have attempted to create a "General Theory of Crime" (1990). This relationship theory systematises external and internal stability factors. According to this theory, particular mechanisms for self-control and a personal relationship to a narrow social environment are decisive for the early development of socialisation-relevant deviant patterns of behaviour. Early development depends particularly on four such relationship factors and levels. There has to be an emotional attachment to role models (especially the parents), commitment to generally recognised goals, involvement in socially accepted activities and, finally, acceptance or adoption of social and legal norms. Emphasis is placed on the interrelationship of external structures (family, social rules and institutions) and internal personal character. Accordingly, lack of social relationship, either in terms of emotional attachment, or internalisation of values, can trigger delinquency.

The reports of social workers dealing with young delinquent migrant children make the problems of their personality development clear. Because of their migrant situation they are often aligned to two cultural groups (c.f. culture conflict theory). A strictly religious family life may be opposed to the rules of the peer group, which are often directed one-sidedly towards material consumption, as in the German lifestyle (c.f. anomie theory). In this "between world" their ties to family and school are often lost. Their leisure time activities are marked by passiveness, excessive media consumption and a general lack of perspective, usually accompanied by unemployment (along these lines, see Bögemann, 1996, 323).

Then within the framework of this lifestyle certain particular codes of behaviour play a determining role. These are often influenced by images of masculinity, learned in the parental home (c.f. Pfeiffer and Wetzels student survey) which see violence as the best (or only) means of solving conflict (see Kersten, 1994, 187ff.). At the same time, however, because of new lifestyle concepts first opportunities to commit offences arise which brings us back to an additional situational element in the explanation schema.

3.3. Labelling approach: labelled as delinquent

The labelling approach is based on a completely different model. Delinquency in this sense is no one-sided event that is dependent on the offender's behaviour. If you consider that only a small proportion of the incidents that break the law are in fact reported, then, in the first instance, it is those reporting offences who decide the extent and distribution of delinquency: they, as it were, label who and what is delinquent. With regard to structural disadvantages of foreigners this approach seems to be very important.

Sack, in fact, sees delinquency as a "negative asset" (Sack, 1968, 469), that can be apportioned socially and politically. It may be said to be brought to life by the agents of social control and the logic of their actions

from the way they perceive the problem. Accordingly, it is less the behaviour patterns of immigrant deviants that create the "particularity" of delinquency; but far more the perceptions, evaluations and attributions of people in the surrounding environment, which "produce" an "excess" of delinquency (Kubink, 1993, 74ff.). According to this interpretation, it is young foreigners, in particular, who are subjected to increased attention from the unofficial instances of control, i.e. the populace, and the official instances - police and judiciary. That is why we also speak of the control approach.

In this respect, the discovery of the selective reporting behaviour in the case of (young) immigrants and the specific styles of controlling by the police should be noted (see D.2.4. and 2.5. above). The most evident example of producing crime of course are the violations of regulations of foreigners' rights.

3.4. Comprehensive sociological approaches

Implicit in the labelling concept there is, above all, criticism of the system which it is possible to carry on by using sociological explanations. The main concern of the entire discussion on "foreigner criminality" is with the functional uses and applications of these interpretations. For example, anomie theory and the labelling model draw different conclusions from the same findings. The former concludes that, *through* foreigners, social disadvantages are transformed into elements that create a danger of crime, whereas the latter sees social dangers *for* foreigners in these social disadvantages. In view of these different perceptions of the issue, sociologists and social psychologists may ask whether the debate on "foreigner criminality" is of any political or social use.

3.4.1. Ownership interests

One thesis that may be put forward is that the more keenly foreigners are felt to be economic competition and a burden on society, the more attention is paid to them, or the more aware people become of them, in criminal law terms. This would then provide some explanation of the labelling approach in terms of criminal sociology. Investigations have shown that, in broad outline, increasing shares in migrant criminality ran parallel to economic parameters, especially to rises in the numbers of unemployed (Kubink, 1993, 175 ff.). From this, one could suppose that corresponding concerns about competition would not only drive foreigners out of the labour market, but at the same time, through corresponding changes in attitude and reporting behaviour, would also help to force them into the criminality market. From this perspective, creating "foreigner criminality" and making it a subject of discussion serve the function of conserving national resources and a position in society for Germans.

3.4.2. The search for scapegoats

"Foreigner criminality" may also be viewed in the light of scapegoat theories and 'stranger' hypotheses - theories typical for psychology.

Closely bound up with issues of economic competition are aspects of xenophobia, fear of strangers, a phenomenon well known in psychology. Here fears of foreign infiltration and feelings of being under threat are linked with other social themes (on this, see Schwind, 2006, 497). When a society or individuals are being asked to react to insecurities, economic or crime conditioned, seen from a social psychological viewpoint, there will be a rapid shifting of aggressions and a projection of fears onto substitute objects that can be held responsible for the actual situation. The signs of difference are subsumed by and become expressions of defect, of social deficit, categories that actually describe people in need of help, though at the same time these categories facilitate the exclusion of the strangers from the circle of the normal. This is how the results of inquiries are to be understood that, among other things, have concerned themselves with attitudes towards migrants living in Germany. According to Münchmeier, a large proportion of young people, particularly in the new federal states, were of the opinion that "too many foreigners live in our country" (71% of those interviewed, compared to 61% in the west - Münchmeier, 2000, 221 ff., 240 f.). A survey by Fuchs/Lamnek/Wiederer (2003, 297 f.) was concerned with the competitive situations described. More than 5000 pupils from different school types in Bavaria were asked about their attitudes to foreign residency in Germany. The following attitudes were discovered.

- 17.3% supposed that "the foreigners living in Germany are a burden on the social network".
- 23.1% assumed that "foreigners bring about problems in the housing market".
- 26.1% found that "foreigners take away German jobs".
- 36.4% declared that "foreigners commit more crimes than Germans".

The authors evaluate these responses as "(pseudo-)rational hostility to foreigners" (Fuchs/Lamnek/Wiederer, 2003, 298).

3.4.3. Interests of the authorities

These hostile images are seen as "good" for the protection of the existence of the German population and their values. Other social institutions also share this way of thinking, which is based on the "foreigner criminality" phenomenon.

In the field of sociology it has been recognised that bureaucracies and supervisory instances develop a life of their own (Max Weber, 1976, 569 f.). Supervisory instances, in particular the police as the direct custodians of public order, are subject to the constant necessity of having to justify their role as providers of security on the one hand, while they press for expansion of their infrastructure on the other. They look for an extension of their duties and larger budgets. Proofs of success make it easier to attract funds and convince the citizens of the necessity and efficiency of the national supervisory apparatus. The successfulness of police investigations is particularly easy to demonstrate where criminality is easily perceived. Statistics that first and foremost list foreign crime suspects as proof of police activities have a special functional logic for the institution. In this instance, without any doubt, the labelling approach is being linked with other particular interests. This would certainly be compatible, too, with Weber's idea of the development of an "expert organ" that is organised to see that institutional interests prevail (Weber, 1972, 204).

3.4.4. Discourse theory approaches – “foreigner criminality” and the media

In discourse theory thinking and speaking have close connections to action and power (also for Foucault). Public discourse has something to do with ways of exercising power. This also applies to the public discussions of "foreigner criminality" and "the foreigner threat". According to the so-called Thomas theorem, people decide to act not so much because they are moved by "objective reality", but primarily because of the way they perceive this reality (Thomas, 1965, p. 102 ff.). Attitudes towards ethnic minorities are also dependent on public perceptions of the problem. Lippmann (1961) has described this phenomenon of creating public opinion by which perceptions are allowed to develop as "pictures in (people's) heads", and so it is with perceptions of "criminality".

Thus reports on foreigners in the media are usually presented linked with scenes of criminality and general threat. A press analysis revealed, for example, that of over 1000 contributions, in which there were reports on foreigners, more than 35% were focussed on "foreigner criminality". 42% were dealing with the issues of immigration or political policy on asylum and foreigners (Kubink, 1993, 83 ff.). These statistics were collected from 1989 to 1991, when there were very heated discussions about immigration mainly because the numbers of immigrants were rising dramatically. Currently there are heated discussions concerning violence at school, especially in large cities - e.g. Berlin - where in some schools more than 80% of the students are young foreigners. These discussions deal with the function of school in the wider context of integration and crime prevention.

E - SPECIAL "PROBLEM GROUPS"

When speaking and thinking about criminality, people come with certain fixed pre-conceptions that soon become prejudices. If youth, violence and foreignness come together - attributes, which when considered singly cause people to feel insecure, - then everyday criminological realities all too quickly become personal certainty.

On the other hand, there are social states of affairs that you are hardly in a position to deny if you want your ideas and arguments to be taken seriously. This is the Janus-headed background against which this section deals with two groups of migrants. Whereas for years the spotlight of the discussion has been focussed on the Turks in the foreground, discussions about ethnic German emigrants and their criminality were scorned. The interest given to the former group, given its size, is easily understood: disinterest in the latter group is probably primarily due to the fact that this group is officially German, and, for a long time, people shied away from comparisons with "foreigner criminality".

1. The Turks

As far as the Turkish migrant group is concerned, we can go back to various findings which have already decided expert opinion. The Turks were, in many respects, the example and illustration that described and explained "foreigner criminality". We could see that the Turks made up by far the largest foreign group in Germany (ca. 1.9 million) and that, correspondingly, they had by far the largest share in criminality. We learned of the numerous social deficits that affected young Turks in particular. Language and integration problems should not be omitted. We know about the fact, that young Turks and their families more often than other migrants live segregated in their housing estates. And young Turks more often than other migrants go to schools which almost exclusively are visited by various groups of migrants. We can stop at these general descriptions that lead naturally from one (being on the social fringe) to the other (criminality), without getting to the core of the integration problem.

Much of what makes for Turkish criminality in Germany should really have been crystal clear after Pfeiffer and Wetzels school inquiry (2000). Apparently there really are such things as "cultural offences", offences that can happen because quite different value concepts prevail. Certainly the schoolbook case of the bloody revenge a Turkish father takes when his daughter is dishonoured is atypical, even though new statistics show us, that in the

recent 10 years 59 so-called "honour-murder" have been committed. However, in the final analysis, excesses of this kind are an expression of different perceptions of violence, which go along with other concepts of masculinity and the corresponding role models. The connection with personal experiences of family violence gives a conclusive explanation of the predisposition to violence and the subsequent acts of violence against third parties and identifies violence, in this case as a phenomenon of socialisation. Moreover, such interpretations are in no way rejected by Turkish experts when, for example, it is suggested that honour, masculinity and friendship are the decisive factors that determine the violent behaviour of juvenile and young adult migrants of Turkish origin (Toprak, 2000, 174f.).

But violent crime is not their inevitable fate. Seen from this perspective, integration consists, to a large extent, in dissolving fixed role model concepts. And so to repeat myself once more - using a particular ethnic group as an example - this is why it is a question of early measures to prevent criminality that will have, it is believed, a long term effect. That means integrating young Turks early in kindergarten that means mixed school classes, that certain threshold levels of migrants should not be exceeded so that the migrant role model does not become dominant. And, in addition to these general measures, it means the measures set out in criminal law, too, that the ambulant education programmes have to set up to encourage a culture of personal learning/unlearning (in the case of violence).

2. The ethnic German emigrants

In contrast to the young Turks, the young ethnic Germans have only been mentioned in passing.

Under widely framed pre-conditions, emigrants of German ethnic origin were deemed to be legally German, as members of the German nation according to Art.116 Basic Law (GG). They come mainly from Poland and the former USSR. Ethnic Germans who have immigrated from these emigrant areas since 31st December, 1992 are described as "late repatriates" in the law on displaced citizens of the Federal Republic (of 2nd June, 1993). But, de facto, we are talking about migrants whose social integration has taken place on a foundation of foreign perceptions of culture and of a social framework with divergent requirements. This applies both as regards social structure and social psychology. In common with other immigrants, they share the problem of being viewed as strangers in their new home country.

Although the first waves of ethnic Germans who immigrated were generally unremarkable in criminal terms, since the mid-nineties there has been a conspicuous crime problem, which has also been concentrated on the young men of this migrant group. During this period there are two observable demographic effects. Firstly, in 1995, the last "large wave" of almost 220 000 ethnic Germans peaked, after which the numbers have fallen regularly to the current figure of circa 59 000 (in 2004). Secondly, since that time the ethnic German emigrants migrating into Germany have been getting younger and younger. A third of the late repatriates are now minors (PSB, 2002, 35). This has to do with the fact that almost two thirds of the new repatriates are the spouses and children of migrants, the majority of whom had come to Germany on their own in the years before. These people, coming today, only have very loose ties to the culture of their German ancestors, and consequently more than 80% of them have considerable language problems (Schwind, 2006, 522).

A sharply rising increase in crimes, such as thefts, drugs and violence offences, has been registered, for example, by Pfeiffer/Brettfeld/Delzer (1996, 39ff.) in their investigation in districts of Lower Saxony. These results were partly confirmed by the results of Mansel's enquiry, involving 2075 school students in Soest, Westphalia (Mansel, 2001). In comparison with other Germans, more late repatriates were involved in blackmail and burglary. There were considerable differences in the multiple offender category, too, considerably more of the young repatriates claiming that, in the last twelve months, they had committed crimes involving damage to property, blackmail, threatening people with weapons, robbery and sexual harassment.

In his first investigation in Bavaria, Luff came to the conclusion that the number of crimes committed by young ethnic Germans was round about the same level as by other Germans (Luff, 2003, 187 ff.). But Luff, too, now indicates that there is a rise in the numbers of acts of hooliganism committed by young ethnic Germans. Between 1997 and 2002 there was a huge increase of 105% (Luff, 2003, 16).

The problems lie in much the same areas as those of the young Turks (particularly as regards language deficiencies and the acceptance of violence). Their social integration is often considerably impaired because, expecting to be accepted as Germans, they have been rapidly disillusioned. Young ethnic Germans are always coming up against acts of prejudice and discrimination. The consequence is a form of "internal cultural conflict" (PSB, 2002, 329), which makes it difficult for them to define for themselves their position in the new society. Their insecurities and built up aggressions also lead on rapidly to acts of violence, which are directed outwards against other people. It should be noted that there are often battles for power fought out between young Turks and ethnic Germans as they lay claim to their territories ("Reviere") (Schwind, 2006, 524). Obviously each group recognises itself and the other as a competitive group and it wants to establish its status by fighting it out.

We can see how youth crime is related to locality, when rival groups fight for control of territory (discotheques or streets of houses). We are looking once more at Gottfredson and Hirschi's explanation model for behaviour, which describes how the way that free time is spent provides the context in which juvenile delinquency is developed (see D.3.2. above).

Current integration policy seeks to defuse these problems by providing more opportunities for improving language skills, and more meeting points and youth centres where the different groups can make contact and exchange ideas in a more suitable setting.

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