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# CRIMINAL-LAW AND CRIMINOLOGICAL ASPECTS OF THE AGE OF CRIMINAL RESPONSIBILITY UNDER THE CRIMINAL LEGISLATION OF THE REPUBLIC OF MOLDOVA

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***Abstract:*** *Objectives: This study aims to analyze the criminal-law and criminological aspects of the age of criminal responsibility under the criminal legislation of the Republic of Moldova, focusing on the distinction between the general age threshold (16 years) and the special threshold (14 years), applicable only to certain offences, and on the criteria underlying their identification. It also seeks to highlight the role of criminological research in determining the age of criminal responsibility for criminal acts. Prior Work: The doctrinal studies used in this research demonstrate continued academic interest in the subject. Researchers have examined the age of the minor as a feature of the offender, emphasizing the role of psychological development in setting a minimum age of criminal responsibility and the minor's capacity to act with discernment. Approach: The study analyses doctrinal interpretations, international and national regulations, and criminological aspects characterizing the age-related features of minors who have committed offences. Results, Implications, and Value: The study offers a comprehensive approach to the age of criminal responsibility, treating it not merely as a chronological threshold laid down by criminal law, but also as a psychological threshold. Determining this age requires consideration of the minor's psychological development, capacity for discernment, the degree of social harm of the attributable offence, and the educational purpose of the criminal-law response. The article may be useful to researchers, students, doctoral candidates, juvenile justice practitioners, and policymakers involved in shaping criminal policy.*

***Keywords***: *offence; punishment; minor; age of criminal responsibility; criminal capacity*

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## 1. Introduction

The establishment of a minimum age of criminal responsibility reflects the legislature's view of the point at which a person acquires the capacity to bear the criminal-law consequences of his or her conduct. Accordingly, the age thresholds for criminal responsibility must be analyzed in close connection with the foundations of this institution, since they explain why and under what conditions the state may legitimately hold a person criminally responsible.

Determining the age of criminal responsibility is not only a matter of criminal law; it also requires criminological and psychological approaches. As the criminal responsibility of minors is a particularly sensitive issue, it remains a priority in both national and foreign scholarship. Topics such as the minor as an offender in the context of state criminal policy, the theory of legal liability and responsibility, the offender and criminal responsibility, and minority in Romanian criminal law have been addressed by numerous authors, including C. Bulai, A. Mariț, D. Baltag, A. Borodac, V. Pavlov, Z. Astemirov, S. Botnaru and others.

Our examination of the age of criminal responsibility revealed the need for both criminal-law and criminological analysis. We also highlighted the importance of the psychological criterion and the criterion relating to the nature and degree of social harm caused by the act when determining the age from which a person may be held criminally responsible. In addition, we analyzed statistical data on the age structure of persons who committed offences during the last five years and formulated the corresponding conclusions.

Recent developments demonstrate that the age of criminal responsibility is no longer examined exclusively through statutory chronological thresholds, but increasingly in relation to the child's psychological development, capacity to act with discernment, and the educational character of the criminal-law response to juvenile offending. International standards likewise promote a reasonably high minimum age of criminal responsibility, as close as possible to the age of majority, and recommend that states should not lower this threshold under public pressure generated by isolated serious cases. The experience of China and Denmark, where attempts to lower the age of criminal responsibility produced outcomes contrary to those expected, has also been examined. It is argued that any legislative amendment to the age threshold for the criminal responsibility of minors must be based on scientific, criminological and psychological evidence, rather than solely on social reactions to highly harmful acts with a strong public impact.

The research identifies several areas requiring further development. With regard to national regulation in the Republic of Moldova, any amendment to Article 21(2) of the Criminal Code, which lists the offences for which minors may be held criminally responsible from the age of 14, should rest on three pillars: (1) psychological research into the capacities of minors; (2) criminological research into juvenile offending; and (3) a legal study of the offences, informed by doctrinal and comparative-law experience.

## 2. General Considerations on the Age of Criminal Responsibility

In the specialist literature, criminal responsibility, as a form of legal liability, has been defined as 'the coercive criminal-law relationship arising from the commission of an offence between the state, on the one hand, and the offender, on the other; a complex relationship whose content consists of the state's right, as representative of society, to hold the offender responsible, to impose the sanction prescribed for the offence committed and to compel its enforcement, as well as the offender's obligation to answer for the act and submit to the sanction imposed, with a view to restoring the legal order and the authority of the law' (Bulai, 1992, p. 34). A similar approach is adopted by other authors, who argue that, given its complexity, criminal responsibility may be defined as the state's right to hold an offender criminally responsible, impose the sanction prescribed by law and use coercive force to enforce it, together with the offender's obligation to bear the consequences of the act, namely the imposition and enforcement of punishment, in order to ensure compliance with the law (Zolyneak & Michinici, 1999, p. 307).

D. Baltag defines criminal responsibility as 'the legal institution comprising the body of legal rules governing an obligation relationship whereby a public authority, on the basis of law, requires an individual to bear the consequences of non-compliance with criminal-law rules, with a view to restoring and maintaining the legal order in society' (Baltag, 2007, p. 313).

A more recent approach maintains that, in determining criminal responsibility, the decisive role is played not by objective circumstances but by the social and psychological conditions in which personality is formed and by the assessment of social and psychological development; furthermore, 'criminal responsibility reflects the level of an individual's consciousness, which is formed during the development of personality' (Bodareva-Solomon, 2024, p. 71).

Synthesizing these doctrinal views, we find that criminal responsibility entails public condemnation by the state of persons who have committed offences and may operate only under the conditions and within the limits laid down by law. This also follows from Article 50 of the Criminal Code, according to which criminal responsibility means 'public condemnation, in the name of the law, of criminal acts and of the persons who committed them, which may be preceded by the coercive measures provided for by law' (Criminal Code of the Republic of Moldova, 2002, art. 50).

Criminal responsibility is based on two grounds: a factual ground, consisting in the commission of a harmful act, and a legal ground, consisting in the presence of all elements of the offence. Consequently, for a natural person to be subject to criminal responsibility, two mandatory characteristics must be present: the statutory age and criminal capacity. Article 21(1) of the Criminal Code of the Republic of Moldova expressly provides that 'natural persons who are criminally responsible and who, at the time of committing the offence, have reached the age of 16 shall be subject to criminal responsibility' (Criminal Code of the Republic of Moldova, 2002, art. 21).

The legislature therefore links a person's capacity to be an offender to criminal capacity and attainment of a prescribed age: 16 years as the general age, and 14 years for the offences listed in Article 21(2) of the Criminal Code. When referring to minors as offenders, two age groups are therefore relevant: 14-15 and 16-17 years.

Because minors remain physically, intellectually, psychologically and socially immature, rules establishing a distinct sanctioning regime, different from that applicable to adults, are both logical and indispensable. As stated in the literature, 'special rules governing the criminal responsibility and punishment of minors were introduced on account of their insufficient psychophysical development, lack of social experience, the highly impressionable nature of their personality, and certain deficiencies in education' (Mitrache, 2010, p. 368).

The regulation of a minimum age of criminal responsibility is an internationally recognized standard of juvenile justice. It is embodied in the principal international legal instruments concerning the protection of children's rights and the administration of juvenile justice, which require states to establish an age below which children cannot be held criminally responsible.

At the international level, states are urged not to set the minimum age of criminal responsibility too low and always to take account of the child's level of development. More specifically, Article 40(3) of the Convention on the Rights of the Child requires states to promote 'the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law' (Convention on the Rights of the Child, 1989, art. 40), and in particular to establish 'a minimum age below which children shall be presumed not to have the capacity to infringe the penal law' (Convention on the Rights of the Child, 1989, art. 40).

The Beijing Rules impose the same requirement, providing that 'in those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity' (Beijing Rules, 1985, rule 4.1).

Current juvenile justice policy is not directed towards lowering the age threshold in order to permit prosecution and punishment at an earlier age for preventive purposes. Instead, it seeks to establish a reasonable threshold that takes account of the child's maturity and capacity to bear the consequences of criminal responsibility. In recent years, particularly in European states, a trend has also emerged towards giving priority to educational measures over punishment and strengthening the legal framework for children who are below the age of criminal responsibility but display antisocial behavior (Russu, 2026, p. 828).

From a legislative perspective, the rules governing the treatment of minors who commit offences have undergone significant changes regarding both the age of criminal responsibility and the sanctions applicable to them. These amendments are justified by the fact that, for a person to qualify as an offender, it must be established that he or she acted with discernment, namely that the person had the mental capacity to understand the substance of legal rules, exercise free will and act in accordance with them. These abilities are not innate; they develop through biological and psychological growth and physical maturation. It is therefore essential to identify the point at which a person acquires these capacities and may be considered able to bear criminal responsibility, that is, the age from which a child may be held responsible for particular criminal acts (Russu, 2026, pp. 828-829).

The importance of establishing reasonable age thresholds for holding a minor criminally responsible is also supported in specialised literature. It is argued, in particular, that the relevant age should be determined by the minor's capacity to perceive, understand and assess the social danger of the criminal acts committed.

These findings are also supported by other interpretations in the specialist literature: 'in order to be held criminally responsible, a person must possess a certain level of legal awareness, which is developed simultaneously on the basis of moral awareness and, to a large extent, political awareness' (Astemirov, 1970, p. 16). From this perspective, legal awareness means the person's capacity to understand the socially harmful and unlawful nature of conduct, as well as the fact that it is disapproved of and sanctioned by society and the state. The acquisition of these abilities is a gradual process dependent on the individual's intellectual and psychosocial development; they take shape with age and the accumulation of life experience.

We fully agree with Professor A. Borodac, who states that 'criminal responsibility is possible only for natural persons who were aware of the actual, factual nature of their action or omission and understood its social significance' (Borodac, 2005, p. 192). The author also stresses that attainment of a certain level of biopsychological development is a prerequisite for establishing the age from which a person may be regarded as an offender. More specifically, he argues that 'the capacity to be an offender presupposes the particular features of a person's biopsychological development, which requires an age limit below which a minor's criminal responsibility is excluded' (Borodac, 2005, p. 190).

Similar views have been expressed by other scholars. S. Botnaru, A. Șavga and others maintain that 'the minimum age of criminal responsibility should not be lower than the age at which a person acquires certain knowledge, including legal knowledge and life experience, and reaches the level of maturity necessary to comply with the requirements of criminal law' (Botnaru et al., 2006, p. 177). A. Mariț likewise emphasizes that the minimum age of criminal responsibility is linked to the level of a person's biopsychological development that enables criminal accountability. In the author's words, 'the capacity to be an offender presupposes the person's mental ability to understand and assume the duties of conduct prescribed by criminal-law rules, as well as the ability consciously to control and direct acts of conduct in relation to those rules; criminal-law theory does not address a maximum age beyond which a person may no longer be recognised as an offender, but only the age from which criminal capacity exists' (Mariț, 2002, p. 130).

Other scholars, including C. Bulai, A. Filipaș and C. Mitrache, argue that, 'having regard to the particular features of a person's biopsychological development, criminal law has had to establish an age below which the criminal responsibility of the minor is entirely excluded, the minor being legally presumed to lack criminal capacity' (Bulai et al., 2001, p. 57).

Another issue addressed in the literature is the accelerated development of human personality, namely the faster biological and physical maturation of the contemporary individual. It is argued that this phenomenon concerns physical and biological development rather than social development. Consequently, accelerated maturation cannot be treated as the dominant criterion when classifying minors for the purposes of criminal responsibility (Astemirov, 1970, p. 28).

Contemporary Russian scholarship emphasises the dynamic nature of the age of criminal responsibility, observing that, in the Russian Federation and many other states, it may evolve in response to social, legal and criminological transformations. V. G. Pavlov considers that this is determined 'first of all by the will of the legislature, which proceeds from the specific historical conditions of society's development and from the criminal policy pursued by the state in combating crime at different stages of its evolution. At the same time, when establishing the age of criminal responsibility, the legislature takes account of data provided by medicine, psychology, pedagogy and other sciences, as well as the typical conditions of development and formation of the majority of adolescents at different stages of life' (Pavlov, 2000, p. 22).

Russian doctrine also analyses the age of criminal responsibility not merely as a formal biological criterion, but as an indicator of the minor's level of psychological, intellectual and volitional development. Thus, it has been stated that, 'since the capacity to be an offender is also determined by a person's attainment of a certain age, it is important to note that, when establishing this minimum threshold, the legislature is guided by the person's capacity to regulate his or her behaviour in accordance with legal and social norms' (Fedonkina, 2014, p. 42).

In explaining the age thresholds for criminal responsibility and the conditions under which a person acquires the capacity to be an offender, A.A. Fedonkina highlights the principle of discernment, which entails 'releasing the minor from punishment where he or she does not understand the nature of the criminal act'. The court must base its conclusions on an assessment of the minor's personality and the specific circumstances of the case, while the basis of criminal responsibility is the minor's level of understanding and awareness of the act and its consequences. The author also emphasizes the principle of legal protection of children and adolescents who commit unlawful acts attracting criminal responsibility and punishment, based on the proposition that 'until a certain age is reached, a person cannot be held responsible for his or her acts because he or she is not yet able to adapt behavior to social norms' (Fedonkina, 2014, p. 42).

As noted above, national criminal law establishes two age thresholds for the criminal responsibility of minors: 14 and 16 years. A logical and purposive interpretation of criminal law shows that children below the age of 14 cannot be offenders for the purposes of criminal responsibility.

Accordingly, a child who has not reached the age of 14 cannot be held criminally responsible for an act prescribed by criminal law, because the law establishes an irrebuttable presumption that the child lacks the discernment necessary for criminal responsibility. It has rightly been stated in the literature that 'evidence to the contrary cannot be admitted; it is presumed that a minor under the age of 14 does not understand the significance of his or her act or cannot control conduct in accordance with that understanding. Under no circumstances can criminal responsibility before the age of 14 be accepted, and therefore no criminal sanction may be imposed' (Dănișor, 2020, p. 237). A. Barbăneagră expresses the same view, arguing that 'Article 21(1) of the Criminal Code shows that a minor who has not reached the age of 14 cannot be an offender. This means that, until the age of 14 is attained, the absence of criminal capacity of the natural person is absolute and its existence cannot be proved under any circumstances' (Barbăneagră, 2009, p. 33).

Nevertheless, there are cases in which children below the age of criminal responsibility commit exceptionally serious offences. Highly violent conduct, such as that reported in the Mario case in Romania, attracts intense public attention and generates demands that the perpetrators be punished (Bularca, 2026). Where no legal framework permits criminal responsibility, however, prosecution is not possible. At the same time, a perception of impunity based solely on the absence of statutory age may weaken the preventive role of criminal law. In Romania, attempts were made to lower the age of criminal responsibility from 14 to 13 (Parliament of Romania, Senate, 2009). Nevertheless, the 2009 Romanian Criminal Code retained the age of 14, reflecting the concern that 'the acknowledged precocity of minors, combined with the legitimate desire to recognize a special sanctioning regime for them, may consciously or unconsciously lead to a dangerous increase in severity towards minors' (Dascăl, 2011, p. 56).

Chinese criminal-law scholarship has promoted the establishment of a single minimum age of 12, justified by the need to protect the public interest, but only subject to the principle of protecting the innocent and punishing the guilty. To achieve this objective, the following safeguards have been proposed: (i) the common-law principle of doli incapax; (ii) a defense based on the child's immaturity; and (iii) prosecutorial discretion and diversion measures. These mechanisms would protect children who, at the time of the act, were unable to understand the unlawfulness of their conduct or control their behavior, thereby exempting them from criminal sanctions. It is also proposed that most children should be diverted from prosecution, which should be reserved for the most serious cases (Wong, 2024, p. 322).

In the same vein, it has been argued that the age of criminal responsibility should be lowered on an individualized basis, together with the establishment and improvement of a social support system designed to protect minors' rights and interests and prevent offending. The advanced arguments include the objective physical and psychological development of minors, the seriousness of juvenile offending, and society's expectations concerning the administration of justice (Li, 2022, p. 66).

Despite conflicting views in favour of lowering the age from which minors may be held criminally responsible, we consider that national legislature is justified in retaining the thresholds of 16 and, exceptionally, 14 years. This solution is consistent with international juvenile justice standards reflected in Council of Europe recommendations and in documents adopted by the UN Committee on the Rights of the Child. General Comment No. 24 (2019) on children's rights in the child justice system, which replaced General Comment No. 10 (2007), reflects developments since 2007, including those relating to the minimum age of criminal responsibility. General Comment No. 10 stated that a minimum age below 12 was internationally unacceptable (para. 32), whereas General Comment No. 24 raised the recommended minimum age to at least 14.

States parties are therefore encouraged to take account of recent scientific findings and to raise the minimum age accordingly to at least 14 years. Evidence from developmental science and neuroscience also indicates that the adolescent brain continues to mature beyond adolescence, affecting certain forms of decision-making. The Committee commends states parties that have established a higher minimum age, such as 15 or 16, and urges states not to lower the minimum age of criminal responsibility under any circumstances, in accordance with Article 41 of the Convention (UN Committee on the Rights of the Child, 2019, para. 22).

Denmark introduced a temporary legislative reform to examine the possible consequences of lowering the minimum age of criminal responsibility for juvenile offending. Contrary to the policy objectives underlying the reform, no evidence was found that it reduced crime. Assuming that there were no spillover effects on 13- or 15-year-olds, the results indicated that the reform was counterproductive, increasing offending among 14-year-olds by approximately 15% relative to the average level, a statistically significant effect. The increase was particularly pronounced among 14-year-olds with a prior history of offending. The empirical findings therefore suggest that the reform, which introduced more severe legal consequences by lowering the age of criminal responsibility, did not achieve the intended preventive or deterrent effect (Damm et al., 2025, p. 509).

Moreover, as early as 2003, the European Network of Ombudspersons for Children advocated 'the progressive raising of the minimum age of criminal responsibility to 18 and the development of innovative systems for responding to all offenders below that age, genuinely focused on their education, reintegration and rehabilitation' (European Network of Ombudspersons for Children, 2003, p. 2).

As noted above, research in child development and neuroscience indicates that maturity and the capacity for abstract reasoning continue to develop in children aged 12 and 13 because the frontal cortex remains under development. Consequently, these children are unlikely fully to understand the consequences of their actions or to comprehend criminal proceedings. Since the Committee on the Rights of the Child recommended raising the minimum age to at least 14, six additional states have introduced reforms to that effect. A total of 69 states now set the minimum age of criminal responsibility at 14, compared with 63 states in 2019 (UNICEF Regional Office for Europe and Central Asia, 2022, p. 10).

## 3. Criminal-law Aspects of the Age of Criminal Responsibility

Returning to the national criminal legislation of the Republic of Moldova, an analysis of Article 21 of the Criminal Code indicates that a minor is presumed to attain a sufficient level of responsibility at the age of 16, in the sense of understanding the nature and consequences of his or her actions and being able fully to exercise and control his or her will. This is the general age of criminal responsibility. Paragraph (2) of the same article, however, contains an exhaustive list of offences for which criminal responsibility begins at the age of 14: 'natural persons aged between 14 and 16 shall be subject to criminal responsibility only for the commission of the offences provided for in Articles 145, 147, 151, Article 152(2), Article 164, Article 166(2) and (3), Articles 171, 172, 186-188, Article 189(2)-(6), Article 190(2)-(5), Article 192(2)-(4), Article $192^1$(2) and (3), Article 196(4), Article 197(2), Article 212(3), Article 217(4)(b), Article $217^1$(3) and (4)(b) and (d), Article $217^3$(3)(a) and (b), Article $217^4$, Article $217^6$(2), Articles 260, 268, 270, 271, 275, 280, 281, 283-286, Article 287(2) and (3), Article 288(2), Article 290(2), Article 292(2), Article 317(2), and Article 342 [Article 21(2) amended by Law No. 5 of 12

February 2026, Official Gazette Nos. 96-99 of 26 February 2026, art. 58; in force from 26 February 2026]' (Criminal Code of the Republic of Moldova, 2002, art. 21).

Article 21(2) of the Criminal Code has undergone numerous legislative amendments since the Code entered into force. These have primarily involved adding offences for which persons aged between 14 and 16 may be held criminally responsible, updating cross-references following the introduction of new offences or the renumbering of provisions in the Special Part, and removing references that had become obsolete.

The updates were prompted mainly by three considerations:

(1) aligning amendments to the Special Part of criminal legislation with Article 21(2) of the Criminal Code. For example, the addition of new aggravating circumstances to Articles 189, 190 and 192 required the provision to be adjusted by including all paragraphs containing those circumstances, while references to Articles 195, 305 and 350, which had been repealed, were removed (Republic of Moldova, 2012);

(2) extending the range of offences attributable to minors and responding to the increased incidence of certain offences among minors. For example, Article 281 of the Criminal Code, concerning the knowingly false communication of a terrorist act, was not originally included in Article 21(2) but was added by Law No. 305/2003 of 11 July 2003. Criminal responsibility from the age of 14 was also introduced for the aggravated unlawful taking of a vehicle without intent to appropriate it, under Article 1921(2) and (3) (Republic of Moldova, 2003);

(3) removing offences from the list in Article 21(2). One example is Article 175 of the Criminal Code, concerning sexual acts with a person under the age of 16. That provision had been included in Article 21(2) since 2003, but its removal was proposed only in 2024. By Law No. 5 of 12 February 2026, published in Official Gazette Nos. 96-99 of 26 February 2026, Article 58, and in force from 26 February 2026, Article 175 was removed from the list of offences for which criminal responsibility begins at the age of 14 (Republic of Moldova, 2026).

We consider the legislature's current decision to set the age of criminal responsibility for the acts provided for in Article 175 of the Criminal Code at 16 to be rational and appropriate. The previous regulation, under which that offence was included among those attracting criminal responsibility from the age of 14, nevertheless warrants examination. It should also be noted that Article 174, which criminalizes consensual sexual intercourse knowingly committed with a person under the age of 16, was not and is not included in the exhaustive list in Article 21(2), although its basic form carries a more severe penalty than the basic form of Article 175: imprisonment from two to five years under Article 174, compared with one to three years under Article 175.

This legislative technique of establishing two age thresholds for criminal responsibility, 16 and 14 years respectively, has also been implemented in several post-Soviet states. An analysis of the offences listed in Article 21(2) of the Criminal Code of the Republic of Moldova shows

that the legislature lowered the threshold to 14 for those offences on the assumption that, from that age, a minor possesses the capacity to discern the nature of such criminal acts.

The specialist literature offers several arguments explaining the criteria used by the legislature in compiling the list in Article 21(2). S. Botnaru, A. Șavga, V. Grosu and M. Grama, for example, argue that 'the legislature included among the offences attributable from the age of 14 acts of heightened danger, such as murder and robbery, as well as acts whose social danger can be understood even at that age, in some cases because of their particularly widespread character, including offences against life, health and property, which are frequently committed by minors' (Botnaru et al., 2006, p. 168).

According to A. Mariț, 'in establishing criminal responsibility from the age of 14 for certain specifically determined offences, the legislature takes account of the following premises: (a) the manifestly harmful nature of those offences, even for persons aged 14; and (b) their heightened harmfulness to society and the interests of citizens' (Mariț, 2002, p. 131).

The rationale for lowering the age threshold to 14 for the offences expressly listed in Article 21(2) can therefore be explained by their manifest nature and degree of social harm: even at that age, the minor is capable of understanding that such conduct infringes values and social interests protected by criminal law.

The prevalence of the offences listed in Article 21(2) among minors may also be relevant, but it cannot be regarded as the sole criterion for establishing criminal responsibility from the age of 14. The literature has argued that 'there are no grounds for assuming that the frequency with which certain offences are committed by minors, as a criminological indicator, was the decisive criterion in selecting the categories of offences for which the law provides criminal responsibility from the age of 14. First, not all the offences concerned are particularly widespread among minors. Second, certain offences, such as theft and hooliganism, reflect the personal characteristics of offenders in this category. Third, the prevalence of particular criminal acts among minors is relative and temporary' (Astemirov, 1970, pp. 41-42).

In our view, under the law as it currently stands, the legislature relied on two criteria when establishing the list of offences in Article 21(2): the psychological criterion and the criterion relating to the nature and degree of social harm caused by the act.

The psychological criterion concerns the minor's mental capacity to act with discernment in relation to a particular offence. The legislature has established a presumption that, for the offences listed in Article 21(2), a minor who has reached the age of 14 possesses sufficient intellectual and volitional development to understand the harmful nature of the act and to direct his or her will towards committing or refraining from it. These are generally ordinary criminal offences whose harmful effects are visible and readily perceptible. It is assumed that, from the age of 14, a person has sufficient intellectual and volitional development to commit with guilt offences such as murder, serious bodily injury, kidnapping, rape, theft, robbery, aggravated robbery, hostage-taking, and knowingly making a false report of a terrorist act.

For offences not included in Article 21(2), the legislature has considered that criminal capacity requires a higher level of psychological and mental development. Full criminal capacity, which arises at the age of 16, is therefore required. In relation to genocide, ecocide, war crimes, mercenary activity, trafficking in human beings, terrorist acts and similar offences, the legislature appears to have considered that a 14-year-old lacks the necessary life experience and the psychological, moral and social values required fully to understand the content and consequences of the conduct and freely to direct his or her will.

The criterion relating to the nature and degree of social harm is secondary and is used by the legislature to determine the categories of offences for which criminal responsibility begins at the age of 14. On this basis, the legislature has provided that, for certain offences, a person may be held criminally responsible from that age only where the offence is committed in aggravating circumstances described in the relevant provision of the Special Part. For example, a person may be held criminally responsible from the age of 14 for intentional moderate bodily injury under Article 152 only where the aggravating circumstances in Article 152(2) are present.

Thus, in addition to the psychological criterion, the inclusion of these offences in Article 21(2) is based on the nature and degree of social harm determined by the gravity of the conduct. When committed in their basic form, these offences cannot be attributed to minors aged between 14 and 16. Attribution becomes possible only where they are committed in the aggravating circumstances constituting qualifying elements of the offence. This category also includes unlawful deprivation of liberty under Article 166(2) and (3), extortion under Article 189(2)-(6), fraud under Article 190(2)-(5), pickpocketing under Article 192(2)-(4), and the unlawful taking of a vehicle under Article 1921(2) and (3), among others.

*De lege ferenda*, any extension or revision of the list in Article 21(2) is an exceptionally complex and distinctly interdisciplinary matter. Such an intervention must be based on rigorous scientific research capable of providing an objective foundation for expanding or restricting the range of acts for which minors aged between 14 and 16 may be held criminally responsible.

First, interdisciplinary legal and psychological studies should assess the cognitive and volitional development of minors in this age group. The research must determine whether, in relation to the specific features of each offence, a minor is capable of understanding the social and legal significance of the conduct, foreseeing its consequences, and consciously controlling his or her behaviour. In other words, it must be established whether the objective and subjective elements of the offence require a level of intellectual and volitional maturity compatible with the developmental stage of persons aged between 14 and 16.

In this context, the inclusion of new offences in Article 21(2) cannot be based solely on the abstract gravity or public resonance of the conduct. A detailed legal analysis of each offence is required, particularly of its constituent elements, the forms of guilt involved, the complexity of the criminal mechanism, and the mental capacities required for the prohibited conduct.

Only such an analysis can demonstrate whether minors in this age group ordinarily possess the mental capacity necessary to act with the form of guilt required by law.

Second, any proposed legislative amendment must also be supported by relevant criminological research. Such research is indispensable for assessing the scale and development of juvenile offending and for providing objective data on the frequency, structure and dynamics of different categories of offences committed by persons aged between 14 and 16. Criminological studies also make it possible to identify risk factors, offender profiles and trends in juvenile crime, which may justify either the inclusion of new offences or the retention of the existing legal framework.

For example, in discussing the age of the offender under Article 147 of the Criminal Code of the Republic of Moldova, R. Cojocaru notes that it is 14 because the offence is included in the list in Article 21(2). The author nevertheless considers it 'debatable that our legislature set the offender's age at 14 rather than 16, given that a minor aged between 14 and 16 is characterized by an incomplete development of the factors governing the intellectual and volitional processes necessary for the formation of guilt, processes that are also substantially affected by the state of physical or psychological disturbance caused by childbirth' (Cojocaru, 2020, pp. 146-147). Psychiatric expertise is therefore relevant in determining whether the offender acted with discernment. As the author rightly emphasizes, 'in criminal cases concerning minors, chronological age may not correspond to the level of psychological development enabling the minor to act culpably. Consequently, in the case of juvenile offenders, discernment should not be automatically inferred from the offender's chronological age' (Cojocaru, 2020, p. 147).

Consequently, any amendment to Article 21(2) should be based on three pillars: (1) psychological research into the capacities of minors; (2) criminological research into juvenile offending; and (3) a legal analysis of the constituent elements of each offence, informed by doctrinal and comparative-law experience.

## 4. Criminological Aspects of the Age of Criminal Responsibility

The importance of criminological studies for rules governing the age of criminal responsibility has already been highlighted. It is therefore appropriate to examine statistical data concerning offences committed by minors during different periods, including data relating to the offenders' ages. According to statistics provided by the Ministry of Internal Affairs (Ministry of Internal Affairs of the Republic of Moldova, 2026), the following numbers of offences were committed by minors or with their participation during the last five years:

- 2021 - 695 offences;
- 2022 - 705 offences;
- 2023 - 449 offences;
- 2024 - 493 offences;
- 2025 - 428 offences.

An analysis of the statistical data for 2021-2025 shows a fluctuating pattern in the number of offences committed by minors, combined with an overall downward trend in recent years. The number of offences committed by minors or with their participation decreased from 695 in 2021 to 428 in 2025.

The age structure of juvenile offending during 2021-2025 shows that the largest share was represented by minors aged 16-17. During the five-year period, a total of 4,319 minors committed offences. Of these, 2,663 were aged 16-17, representing approximately 61.7% of the total; 1,419 were aged 14-15, representing approximately 32.9%; and 237 were below the age of 14, representing approximately 5.5%. Table 1 presents the dynamics of offences committed by minors and their distribution by age group during the period under review.

**Table 1. Dynamics of offences committed by minors and distribution of juvenile offenders by age group, 2021-2025**

| Year | Offences committed by minors or with their participation | Total juvenile offenders | Under 14 | 14-15 years | 16-17 years |
|---|---|---|---|---|---|
| 2021 | 695 | 1163 | 72 | 427 | 664 |
| 2022 | 705 | 1039 | 49 | 292 | 698 |
| 2023 | 449 | 735 | 47 | 277 | 411 |
| 2024 | 493 | 802 | 45 | 245 | 512 |
| 2025 | 428 | 580 | 24 | 178 | 378 |

*Source: Compiled by the authors on the basis of data from the National Bureau of Statistics of the Republic of Moldova (2026) and the Ministry of Internal Affairs of the Republic of Moldova (2026).*

Note: Data on offences committed by minors or with their participation refer to the number of recorded offences, whereas age-group data refer to the number of juvenile offenders. In the datasets of the Ministry of Internal Affairs, the age groups are recorded as '14-15 years' and '16-17 years'. The category 'under 14 years' was calculated as the difference between the total number of minors and the sum of the 14-15 and 16-17 age groups.

This age distribution confirms that juvenile offending is concentrated predominantly among adolescents approaching the age of majority.

A year-by-year analysis confirms the same pattern. In 2021, out of 1,163 minors who committed offences, 664 were aged 16-17, representing 57.1%; 427 were aged 14-15, representing 36.7%; and 72 were under 14, representing 6.2%. In 2022, the share of minors aged 16-17 increased to 67.2%, while those aged 14-15 accounted for 28.1% and those under 14 for 4.7%. In 2023, the 16-17 age group represented 55.9%, the 14-15 group 37.7%, and children under 14 represented 6.4%. In 2024, the respective shares were 63.8%, 30.5% and 5.6%. In 2025, minors aged 16-17 accounted for 65.2%, those aged 14-15 for 30.7%, and those under 14 for 4.1%.

The data support several important criminal-law and criminological findings. First, the predominance of minors aged 16-17 confirms that the risk of involvement in offending increases as adolescents approach the age of majority. This can be explained by intensified

social relationships, including the formation of or adherence to peer groups displaying antisocial conduct, greater personal autonomy, pronounced physical development, and risk-taking behavior characteristic of late adolescence. Criminal responsibility should therefore not be analyzed uniformly across all juvenile age groups but differentiated according to the minor's stage of psychosocial development.

The data concerning minors aged 14-15 are directly relevant to the interpretation of Article 21(2) of the Criminal Code, which expressly lists the offences for which persons aged between 14 and 16 may be held criminally responsible. The share of this group, ranging from 28.1% to 37.7% during the five-year period, shows that it is important from a criminal-law perspective, but not dominant. Retaining a limited regime of criminal responsibility from the age of 14 is therefore justified, since early criminal intervention should be confined to particularly serious acts and grounded in the minor's psychological capacity to understand the harmful nature of the conduct.

The statistics also demonstrate the existence of children under 14 who commit acts prescribed by criminal law but cannot be subjected to criminal measures. This clearly indicates the need to develop and apply effective non-criminal mechanisms. For children below the age of criminal responsibility, the state's response should focus on protection, counselling, education and social assistance rather than criminal punishment. The relatively small share of this category, 5.5% for the entire period, does not diminish its significance, because each case requires identification of the vulnerabilities that contributed to the child's antisocial conduct and the implementation of appropriate interventions.

The analysis of the age structure of juvenile offending therefore confirms both the need for a differentiated criminal policy and the importance of criminological research in ensuring an effective response. Children under 14 should remain outside the scope of criminal responsibility, while being subject to appropriate protective and preventive measures. Minors aged 14-15 should be held criminally responsible only in cases expressly and exhaustively provided for by law, on the basis of their capacity to understand the harmful nature of the acts committed. Minors aged 16-17, although approaching adulthood, should continue to benefit from a mitigated, carefully individualized sanctioning regime focused on education and social reintegration. A balance must always be maintained between the protection of social values and relationships and the interests of the child in conflict with criminal law.

## 5. Conclusions

The study demonstrates that the age of criminal responsibility is one of the most complex institutions of criminal law, because it requires a balance between the protection of social values and the individualization of criminal responsibility in light of the biological, psychological and social characteristics of the minor's development.

The analysis of the national legal framework, international standards, comparative experience, doctrine and statistical data shows that age thresholds for criminal responsibility cannot be the product of a purely legislative choice; they must be grounded in interdisciplinary scientific evidence. Any amendment to Article 21(2), whether involving a change in the age threshold or the inclusion or removal of offences, should rest on three fundamental pillars: (1) psychological research into minors' cognitive and volitional development; (2) criminological studies of the dynamics and particular features of juvenile offending; and (3) a legal analysis of each offence in conjunction with doctrinal and comparative-law experience.

Overall, international standards and comparative experience demonstrate that contemporary criminal policy concerning minors is oriented towards humanization, individualization and differentiation of criminal responsibility. Any legislative intervention should therefore be guided primarily by the best interests of the child. Changing the age of criminal responsibility cannot, by itself, provide an effective means of preventing juvenile offending in the absence of adequate social, educational and reintegration policies.

## 6. Bibliography

Astemirov, Z.A., 1970. *Уголовная ответственность и наказание несовершеннолетних/ Criminal liability and punishment of minors*. Edited by N.A. Struchkov. Moscow: Научно-исследовательский и редакционно-издательский отдел.

Baltag, D., 2007. *Teoria răspunderii și responsabilității juridice/ Theory of legal liability and responsibility*. Chișinău: ULIM, F.E.-P. 'Tipografia Centrală'.

National Bureau of Statistics of the Republic of Moldova, 2026. *Nivelul infracționalității în Republica Moldova în anul 2025/ Crime rate in the Republic of Moldova in 2025*. [online] Available at: https://statistica.gov.md/ro/nivelul-infractionalitatii-in-republica-moldova-in-anul-2025-9478_62334.html [Accessed 11 April 2026].

Bodareva-Solomon, I., 2024. Minorul - subiect al infracțiunii în contextul politicii penale a statului/ The minor - subject of the crime in the context of the state's criminal policy. *Doctoral thesis in law*. Chișinău.

Borodac, A., ed., 2005. *Manual de drept penal: Partea generală. Pentru învățământul universitar/ Criminal Law Manual: General Part. For University Education*. Chișinău: 'Ștefan cel Mare' Academy; State Publishing and Printing Enterprise 'Tipografia Centrală'.

Botnaru, S., Șavga, A., Grosu, V. and Grama, M., 2006. *Drept penal. Partea generală/ Criminal law. General part*. Chișinău: Cartier.

Bulai, C., 1992. *Drept penal român. Partea generală/Romanian criminal law. General part*. Vol. I. Bucharest: Casa de Editură și Presă 'Șansa' SRL.

Bulai, C., Filipaș, A. and Mitrache, C., 2001. *Instituții de drept penal: curs selectiv pentru examenul de licență/ Criminal law institutions: selective course for the bachelor's degree exam*. Bucharest: Editura Trei.

Bularca, D.L., 2026. 'Cazul lui Mario, copilul ucis de alți adolescenți, între care unul de 13 ani. Ministrul Justiției anunță că va analiza dacă va fi redusă vârsta pentru răspunderea penală'/'The case of Mario, the child killed by other teenagers, including a 13-year-old. The Minister of Justice announces that he will analyze whether to lower the age of criminal responsibility. *HotNews.ro*, 26 January. [online] Available at: https://hotnews.ro/grup-de-lucru-

la-ministerul-justitiei-dupa-uciderea-lui-mario-pentru-a-decide-daca-trebuie-scazuta-varsta-pentru-raspunderea-penala-2157435 [Accessed 13 April 2026].

Criminal Code of the Republic of Moldova No. 985-XV of 18 April 2002, 2002. [online] Available at: https://www.legis.md/cautare/getResults?doc_id=153235&lang=ro [Accessed 21 March 2026].

Cojocaru, R., 2020. *Infracțiunea de pruncucidere/ The crime of infanticide*. Chișinău: Cartea Militară.

Convention on the Rights of the Child, 1989. Adopted on 20 November 1989. [online] Available at: https://www.legis.md/cautare/getResults?doc_id=115568&lang=ro [Accessed 14 March 2026].

Damm, A.P., Larsen, B.Ø., Nielsen, H.S. and Simonsen, M., 2025. 'Lowering the Minimum Age of Criminal Responsibility: Consequences for Juvenile Crime'. *Journal of Quantitative Criminology*, 41(3), pp. 495-521. doi:10.1007/s10940-025-09604-y.

Dănișor, M., 2020. *Drept penal. Partea generală: curs universitar/ Criminal law. General part: university course*. Bucharest: Universul Juridic.

Dascăl, T., 2011. *Minoritatea în dreptul penal roman/ Minority in Romanian criminal law*. Bucharest: C.H. Beck.

European Network of Ombudspersons for Children, 2003. Statement on Juvenile Justice: Europe's Children's Champions Challenge Governments to Respect Young Offenders' Rights. Stockholm, 17 October 2003. [online] Available at: https://enoc.eu/wp-content/uploads/2015/01/ENOC-2003-Statement-on-Juvenile-Justice-.pdf [Accessed 14 March 2026].

Fedonkina, A.A., 2014. Категория возрастной незрелости в юридическом контексте'/The category of age immaturity in the legal context'. Психологическая наука и образование/ Psychological Science and Education psyedu.ru, 3, pp. 41-50. [online] Available at: https://psyjournals.ru/journals/psyedu/archive/2014_n3/psyedu_2014_n3_71341.pdf [Accessed 14 March 2026].

Li, Z., 2022. 'Reflections on Lowering the Minimum Age of Criminal Responsibility: Commenting on Article I of Amendment (XI) to the Criminal Law of the People's Republic of China'. *BCP Social Sciences & Humanities*, 17, pp. 54-67. [online] Available at: https://bcpublication.org/index.php/SSH/article/view/620/583 [Accessed 14 March 2026].

Mariț, A., 2002. *Drept penal. Partea generală. Vol. I. Legea penală. Teoria infracțiunii. Participația penală/ Criminal law. General part. Vol. I. Criminal law. Theory of crime. Criminal participation*. Chișinău: F.E.-P. 'Tipografia Centrală'.

Ministry of Internal Affairs of the Republic of Moldova, 2026. *Statistica persoanelor minore care au săvârșit infracțiuni pe teritoriul Republicii Moldova/Statistics of minors who committed crimes on the territory of the Republic of Moldova. Government Open Data Portal of the Republic of Moldova*. [online] Available at: https://dataset.gov.md/dataset/4768-statistica-persoanelor-minore-care-au-savirsit-infractiuni-pe-teritoriul-rm [Accessed 11 April 2026].

Mitrache, C. and Mitrache, Cr., 2010. *Drept penal român. Partea generală/ Romanian criminal law. General part*. 8th ed. Bucharest: Universul Juridic.

Parliament of Romania, Senate, 2009. Draft Criminal Code, L64/2009, Senate registration No. L64/09.03.2009, Government No. E24/03.03.2009. [online] Available at: https://www.senat.ro/legis/PDF/2009/09L064FG.pdf [Accessed 13 April 2026].

Pavlov, V.G., 2000. Субъект преступления и уголовная ответственность/ Subject of the crime and criminal liability. Monograph. Series 'Учебники для вузов. Специальная литература'/Textbooks for Universities. Specialized Literature. Saint Petersburg: Издательство 'Лань'; Saint Petersburg University of the Ministry of Internal Affairs of Russia.

Beijing Rules, 1985. *United Nations Standard Minimum Rules for the Administration of Juvenile Justice. UN General Assembly Resolution 40/33 of 29 November 1985*. [online] Available at: https://probatiune.gov.md/files/getfile/156 [Accessed 14 March 2026].

Republic of Moldova, 2003. Law No. 305-XV of 11 July 2003 amending the Criminal Code of the Republic of Moldova. Official Gazette of the Republic of Moldova, Nos. 153-154, art. 619.

Republic of Moldova, 2012. Law No. 134 of 14 June 2012 amending and supplementing certain legislative acts. Official Gazette of the Republic of Moldova, Nos. 135-141, art. 449.

Republic of Moldova, 2026. Law No. 5 of 12 February 2026 amending certain normative acts (prevention and combating of sexual exploitation and sexual abuse of children). Official Gazette of the Republic of Moldova, Nos. 96-99, art. 58, 26 February 2026.

Russu, V., 2026. 'Vârsta - semn inerent al minorului ca subiect al infracțiunii'. In: Protecția drepturilor și libertăților fundamentale ale omului în procesul asigurării ordinii și securității publice/'Age - an inherent sign of the minor as a subject of crime'. In: Protection of fundamental human rights and freedoms in the process of ensuring public order and security. *Materialele Conferinței științifice naționale cu participare internațională din 10 decembrie 2025/ Materials of the National Scientific Conference with international participation from December 10, 2025*, 5th ed. Chișinău: Editorial and Printing Department of the 'Ștefan cel Mare' Academy of the Ministry of Internal Affairs, pp. 827-832.

UN Committee on the Rights of the Child, 2019. General Comment No. 24 (2019) on Children's Rights in the Child Justice System, CRC/C/GC/24, 18 September 2019. [online] Available at: https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child [Accessed 15 March 2026].

UNICEF Regional Office for Europe and Central Asia, 2022. Systematic Responses to Children under the Minimum Age of Criminal Responsibility Who Have Been (Allegedly) Involved in Offending Behaviour in Europe and Central Asia. Guidance Note. December 2022. [online] Available at: https://www.unicef.org/eca/media/27721/file/Systematic%20Responses%20to%20Children%20under%20the%20Minimum%20Age%20of%20Criminal%20Responsibility%20who%20have%20been%20%28Allegedly%29%20Involved%20in%20Offending%20Behaviour%20in%20Europe%20and%20Central%20Asia.pdf [Accessed 14 March 2026].

Wong, A.H.L., 2024. 'Can Lowering the Minimum Age of Criminal Responsibility Be Justified? A Critical Review of China's Recent Amendment'. *The Howard Journal of Crime and Justice*, 63(3), pp. 322-348. doi:10.1111/hojo.12543.

Zolyneak, M. and Michinici, M.-I., 1999. *Drept penal. Partea generală/ Criminal law. General part*. Iași: Editura Fundației Chemarea.