



When punishing the dividual turns into punishing the individual – Peculiarities of the fine

Individualisation in Sentencing & Penal Decision-Making: A European

Peculiarities of a paid fine

- may be settled by anyone
- no stigma attached
- easy to compensate for (Bentham 1840)
- universal evil (Simmel 1989 [1901])
- individually adjustable (Sutherland 1947)
- money as “currency of justice“ (O'Malley 2009)
- regulating instead of disciplinary (O'Malley 2009)

Peculiarity of an unpaid fine

➔ All this changes, when an individual fined becomes an individual imprisoned for fine-default

- “class character“ (Rusche/Kirchheimer 1974 [1939]; Harris 2016)

A few legal / empirical facts about the fine

- day fine system since 1975
- applicable for small offences
- intention: abolish short prison sentences (contratry effect with imprisonment for fine-default)
- when imprisoned: no possibilites to ease detention

Dividuals turn into individuals

- consumer society → convicts flow through system as
- „**dividuals**“ = not persons but identifiable disassembled elements.
 - adressed as uniquely identifiable, disassembled elements
 - fragmentary roles for which we are licenced and numbered

Do fine-defaulters understand individualization?

(cf. Bögelein 2017)

- “If your face is known a bit, you’re a bit of a celebrity say, then you might get a daily unit of 10 or 15,000 Euros and a total fine of 50,000 Euros. But if I got a fine of 50,000 Euros, my daily unit would amount to 10 or 20 Euros tops. And that is there it goes wrong. It should be fairer, that’s for sure.”

(Respondent 27, default imprisonment)

Do fine-defaulters understand individualization?

(cf. Bögelein 2017)

- “A higher daily unit means you spend less time in here, but it’s also going to cost you. If I get a daily unit of 5 Euros and I pay 50, I’ve settled ten days. But If I get 15 Euros, you can guess how much that is when you pay 50 – it’s 3.5 days. That’s a difference alright. If you don’t have much money and you would like to pay, I think a lower daily unit is preferable. But if your daily unit is higher, you will have to pay more money to settle more days.”
- (Respondent 26, default imprisonment)

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