This project
is co-funded by
The European Union

fiducia
Justice
Needs Trust

FP7 RESEARCH PROJECT FOR NEW EUROPEAN CRIMES AND TRUST-BASED POLICY

Edited by:
Stefano Maffei
Lenga Markopoulou

volume #1
2013

VOLUME 1
2013

FIDUCIA
NEW EUROPEAN CRIMES AND TRUST-BASED POLICY

Edited by:
Stefano Maffei & **Lenga Markopoulou**

fiducia Justice Needs Trust | **FP7** RESEARCH PROJECT FOR NEW EUROPEAN CRIMES AND TRUST-BASED POLICY

SEVENTH FRAMEWORK PROGRAMME

EUROPEAN COMMISSION European Research Area

The research leading to these findings and results has received funding from the European Union's Seventh Framework Programme (FP7/2007-2013) under **Grant Agreement N° 290563**

Introduction

In the last decade, two large-scale research projects that focused on trust in justice were funded by the European Commission under the Seventh Framework Programme. EURO-JUSTIS, which was co-ordinated by Mike Hough and ran from 2008 to 2011, aimed to develop social indicators on trust in justice in order to enable evidence-based public assessment of criminal justice across Europe. The purpose of the FIDUCIA project, which began in 2012 and will conclude in 2015, is to shed light on a number of distinctively "new European" criminal behaviours which have emerged in the last decade as a consequence of technology developments and the increased mobility of populations across Europe, and propose new approaches to the regulation of such behaviours.

For years, the question which has dominated and defined criminology is, 'Why do people break the law?' Procedural justice theory in general, and the two projects in particular, invert this question to discover reasons for *compliance* with the law. This focuses attention on a different set of explanations. When we ask why we *ourselves* observe the criminal law most of the time, we immediately look to answers that are couched in terms of normative compliance. When people ask why *others* break the law, explanations tend to be in terms of instrumental factors, such as insufficient deterrence or insufficient responsiveness to deterrence.

The central idea behind the FIDUCIA project is that public trust in justice is important for social regulation: this is why the Consortium proposes a "trust-based" policy model in respect of emerging forms of criminality. Its aim is to determine whether new ways of regulating the sorts of crimes that are becoming more common as we move towards a more integrated Europe, with improved communication, large movements of citizens and non-citizens between member states can be discovered.

What does the FIDUCIA research team mean by "trust-based policy"? This is a fundamental idea, however it requires further explanation.

Most people think that police and criminal justice systems control crime through systems of deterrent threat. They suppose that people obey the law because they want to avoid the costs of conviction and punishment in the courts. This is partly true, yet it is only part of the story. Most people obey the law most of the time because they think it is the right thing to do. The police and the courts play an important role in maintaining this "normative commitment to the law", and they do it best when they command legitimate authority. People are more likely to obey the law and to cooperate with police and justice officials when they regard them as legitimate.

Research carried out in the past by FIDUCIA team members demonstrates that the surest way of building the legitimacy of the police and the courts is for justice officials to treat people fairly and respectfully, and to listen to what they have to say. This creates public trust in justice, which builds system legitimacy, and improves public commitment to the law and cooperation with justice.

When submitted for consideration to the European Commission, the FIDUCIA research bid was designed by a network of European Universities & Research Centers with a view to promoting an alternative view to the way of developing criminal policy across Europe. The Consortium members could not predict that the very concept of "trust" – which is central to the FIDUCIA project – would soon become central also to the very existence of contemporary Europe, and the Euro-zone, far beyond the boundaries of criminal policy.

In 2012, the FIDUCIA team made the decision to hold its Annual event at the European Society of Criminology (ESC) Conference in Bilbao, Spain. This tradition was followed in 2012 (Budapest) and will continue in 2013 (Prague), thanks to the energy and support of Professor Marcelo Aebi, Executive Secretary of the ESC and Chair of the External Expert Group of the FIDUCIA project.

This publication contains the findings of the FIDUCIA project's first-year of research, namely a review of: the state of knowledge on crime trends (Deliverables 2.1, 2.2 and 2.3), the effective-ness of current criminal policies (Deliverables 3.1, 3.2 and 3.3) and the fear of crime, trust in justice and punitive attitudes of citizens across Europe (Deliverables 4.1, 4.2 and 4.3).

Stefano Maffei
Coordinator of the FIDUCIA project

Contents

Work Package 2
State of the art:
Crime trends

2.1

Review of existing efforts to describe trends at european level

by: Ana Pérez Cepeda, Demelsa Benito Sánchez, Rita Haverkamp, Minna Viuhko,
Maria Yordanova, Dimitar Markov, Maria Doichinova,
Matti Joutsen and Anniina Jokinen

EXECUTIVE SUMMARY

The FIDUCIA research project (New European Crimes and Trust-based Policy) is co-funded by the European Commission under the 7th Framework Programme for Research and Development. FIDUCIA will shed light on a number of distinctively 'new European' criminal behaviours that have emerged in the last decade as a consequence of developments in technology and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation, and FIDUCIA proposes a 'trust-based' policy model in relation to emerging forms of criminality.

Work Package 2 synthesizes much of the existing literature regarding crime trends in Europe, and offers a context against which different approaches to the regulation of crime can be assessed in a comparative perspective. This deliverable — 'Review of existing efforts to describe crime trends at European level' — reviews work up to the present time, covering the content, scope, and relevance of existing efforts to describe trends at the European level. Many organisations across Europe, and the world, collect crime data through police statistics of recorded crime, victimisation surveys or self-reported delinquency surveys. Thus, the current body of crime data resources is relatively large, and reviewing all of the sources would exceed the reasonable limits of this report. Therefore, only the most representative datasets at the European level and worldwide have been analysed within this deliverable. These datasets include: the European Crime and Safety Survey, the European Social Survey, the European Sourcebook of Crime and Criminal Justice Statistics, the European Union Minorities and Discrimination Survey, the Eurostat Crime Statistics ('Statistics in focus'), the International Crime Victims Survey, the International Self-Report Delinquency Survey, the International Violence Against Women Survey and the UN Surveys on Crime Trends and Criminal Justice Systems. This report summarises the results of that review by focussing on various factors such as the organisation, years covered, geographical coverage, types of crime, weaknesses, strengths and relevance of the data source.

1. DATA COLLECTION MECHANISMS: RECORDED DATA AND SURVEY-BASED DATA

Criminologists have used police statistics to measure crime since the first half of the nineteenth century, when the first police statistics of recorded crime were developed (Aebi & Linde 2012). Nowadays, police statistics are the most readily available dataset other than victimisation surveys and self-reported delinquency surveys. However, the weaknesses of official statistics are widely known. By definition, such figures only include crimes that are reported to and subsequently recorded by the police; so consequently, they ignore the 'dark figure' of unreported or unrecorded crime.

In addition, there are factors that determine the outcome of police statistics on recorded crime to the extent that making reliable comparisons of crime across countries is difficult. According to von Hofer (2000), three such factors can be identified: statistical, legal and substantive factors. Statistical factors refer to the way in which crime statistics are elaborated (e.g. statistics are affected by the moment at which an offence is recorded, either at the time of reporting to the police, or later on). Legal factors include, among others, the way the crime is defined in the relevant legislation, as well as various related aspects of the judicial process. Substantive factors refer to the propensity to report and to record offences, as well as to the actual crime levels. Aebi (2010) adds criminal policy factors, which refer to crime and crime prevention policies applied by a country, and may affect the other three factors mentioned. For instance, the application

of a zero-tolerance policy should lead to an increase in the offences recorded by the police, at least during the first months of its application, because if the police are interested in every offence, the number of recorded offences should increase.

All aforementioned factors make it difficult to draw reliable comparisons on crime across countries (or even within a country over time). Although that does not mean that police statistics suffer from the lack of any validity, it does mean they are an insufficient means of measuring crime and therefore need to be complemented. For this reason, alternative methods to measure crime have been introduced: victimisation surveys and self-reported delinquency studies.

Instead of counting offences reported to the police, victimisation surveys ask the public at large whether they have experienced crime. However, comparing the results from national victimisation surveys such as the National Crime Victimisation Survey in the United States and the British Crime Survey also presents challenges because the questionnaires and methodologies differ (Lewis 2012, van Dijk et al. 2007b). Nevertheless, victimisation surveys devised by international organizations (especially the International Crime Victims Survey, see 3.1 below) using uniform offence definitions and standardized sampling and interview methods allow scholars to draw reliable comparisons on crime. Therefore, they have become the preferred source of information on levels of crime in many developed countries (van Dijk et al. 2007b). Unfortunately, representative victimisation surveys are scarce among the developing countries (Heiskanen 2010).

In self-reported delinquency studies, individuals — usually juveniles — are asked if they have engaged in delinquent behaviours. Since the first studies, the self-report methodology has become much more sophisticated in design, making it more reliable and valid. Therefore, along with victimisation surveys, they are nowadays widely accepted as important tools to measure crime. If the studies are conducted using the same questionnaire and the same methodology, they are an alternative to the official statistics on recorded crime for making reliable cross-national comparisons. The general view is that a combination of official recorded data and survey-based data is the best way to go about assessing crime (Alvazzi del Frate 2010).

This report examines the most representative crime indicators in existence, based either on official recorded data or on surveys.

2. REVIEW AND SUMMARY OF THE MOST REPRESENTATIVE CRIME DATASETS

Presently, there is quite a large number of indicators (both official statistics and survey-based data) that can be used in measuring crime. Analysing all of them would exceed the reasonable limits of this report. Therefore, only the most representative indicators are analysed in the next sections. Specifically, ten datasets are considered in detail below. The first five datasets cover the entire world, while the remaining sets cover European countries (see table 1).

3. WORLDWIDE DATASETS

The most important worldwide datasets on crime are reviewed in this section, focusing on the organization which collects the information, the years covered, the geographical coverage, the types of crime, the weaknesses, the strengths and the relevance of the data source.

Table 1. List of datasets on crime worldwide and at European level

Coverage	Crime data source
Worldwide	1. International Crime Victims Survey (ICVS) 2. International Self-Report Delinquency Survey 3. International Violence Against Women Survey (IVAWS) 4. UN Surveys on Crime Trends and Criminal Justice Systems (UN-CTS) 5. Organized Crime Indicators
European level	1. European Crime and Safety Survey (EU ICS) 2. European Social Survey (ESS) 3. European Sourcebook of Crime and Criminal Justice statistics 4. European Union Minorities and Discrimination Survey (EU MIDIS) 5. Eurostat Crime statistics ("Statistics in focus")

3.1. INTERNATIONAL CRIME VICTIMS SURVEY[1]

The International Crime Victims Survey (ICVS) is a programme of standardised sample surveys that evaluate selected homeowners' experiences with crime, policing, crime prevention and feelings of insecurity in a large number of countries. The ICVS became operational in 1989, with the main objective of advancing international comparative criminological research beyond the constraints of officially recorded crime. The next sweeps took place in 1992, 1996, 2000 and 2004/2005. Over that period, the database included 325,454 individual respondents in 78 different countries (nationwide in 37 countries). In 2009, a new sweep was conducted in five European countries (Denmark, Germany, The Netherlands, Sweden and United Kingdom) and in Canada. The results of this latest sweep had not been made available to the public at the time of writing this deliverable (May 2012).

The first ICVS was coordinated by the Dutch Ministry of Justice (WODC). Since the early 1990s, the ICVS has been mainly coordinated by the United Nations Interregional Crime and Justice Research Institute (UNICRI), and has been expanded to Eastern Central Europe and developing countries. In 2005, the European Commission co-financed the European Survey on Crime and Safety (see below 4.1), which overlapped with the 2005 ICVS.

The fifth round of the ICVS (2004/2005; referred to below as ICVS-5) gathered data from 30 countries, including the majority of the developed countries, and data from 33 main cities of a selection of developed and developing countries. Altogether, the ICVS-5 collected data from 38 countries. For the first time, data was available on Hong Kong (Special Administrative Region of China) and Istanbul (Turkey). Surveys were also done in Buenos Aires (Argentina), Johannesburg (Republic of South Africa), Lima (Peru), Maputo (Mozambique), Mexico, Phnom Penh (Cambodia), and Rio de Janeiro and Sao Paulo (Brazil).

The sample size is generally around 2 000 people per country. In most countries the survey was carried out among samples of the national population and a booster sample of the population living in the main cities. EU Member States, for example, divided their sample size into a larger national section with a targeted size of 1 200 people and a relatively smaller main city part with a targeted size of 800 people. Participants (the people polled) are 16 years of age or older (van Dijk et al. 2007b).

The data is collected by two means: Computer Assisted Telephone Interviews (CATI) and face-to-face interviews. CATI was employed in 24 of the 30 country surveys. Interviews were carried out via fixed telephones, with the exception of Finland, where an additional sub-sample was interviewed via mobile phones. The difference in Finland was due to the emerging trend among specific population groups to exclusively use

1. Contributor to this section: Rita Haverkamp.

mobile phones, which is stronger than anywhere else in Europe. Face-to-face interviews were carried out in Poland, Estonia, Bulgaria, Turkey (Istanbul), Japan and in all developing countries.[2]

ICVS provides a measure of common crimes to which the general public is exposed, including relatively minor offences as well as more serious crimes:

- Vehicle related crimes: theft of a car, theft from a car, theft of a motorcycle or moped, and theft of a bicycle;
- Burglary, attempted burglary and theft of personal property;
- Contact crimes: robbery, sexual offences, and assault and threat.

For the types of crimes covered, the ICVS asks about incidents that largely accord with legal definitions of common offences, using colloquial language. Respondents are asked about victimisation by ten types of common crime that they themselves or their household may have experienced. Household crimes are those which can be seen as affecting the household at large, and respondents report on all incidents known to them. The questionnaire covered the following as separate household crimes: car theft (including joyriding), theft from or out of a car, motorcycle theft, bicycle theft, burglary and attempted burglary. For personal crimes, respondents report on what happened to them personally. Types of personal crimes included are sexual incidents (including serious incidents like rape and other sexual assaults), threats and assaults (including assaults with force), robbery and theft of personal property (including pickpocketing) (van Dijk et al. 2007b).

Through a set of special questions the survey also gathers information on non-conventional crimes such as street-level corruption (bribe-seeking by public officials), consumer fraud (including Internet-based fraud and credit card fraud), drug-related problems and hate crimes (in the EU).

ICVS is 'the largest ever multi-national effort to apply the science of criminology to measuring and comparing rates and trends in the harm of crime, how it affects victims, and how crime victims perceive the governmental responses to their crimes.' This was declared by the Co-Chair of the International Jury for the Stockholm Prize, Professor Lawrence Shermann, when Professor Jan van Dijk was awarded with the 2012 Stockholm Prize in Criminology for his sustained leadership of the ICVS since 1989.

ICVS is widely accepted as one of the most important tools to measure and compare crime across countries. Scholars have pointed out many reasons to prefer ICVS over official statistics on recorded crime (see, among the most recent literature, e.g. Lewis. 2012, Tseloni et al. 2010, and van Dijk et al. 2007b). First, it overcomes the well-known shortcomings of the police statistics (different definitions of the types of crime, different recording practices and counting rules, differences in willingness of the public to report crimes to the police, etc.). Second, standardised questionnaires are employed in all countries, allowing for more reliable comparisons than with separate surveys conducted differently, in different countries at different times. Finally, the data is not influenced by agencies affected by political or ideological ideas of governments of the individual countries.

However, ICVS suffers from certain limits that are pointed out, for example, by the authors of the report, *Criminal Victimisation in International Perspective – Key findings from the 2004/20005 ICVS and EU ICS* (van Dijk, et al. 2007b). For instance, full standardisation of all design aspects has proven to be unattainable, especially in developing countries. Although there are no reasons to assume that comparability has in any way been systematically compromised, results may have been affected in individual countries in unknown ways due to divergent design features (mode of interviewing, period in which the fieldwork was done) and relatively small samples interviewed (2 000 in most countries and 800 in most cities). In addition, the ICVS ignores victimisation by

2. A detailed description of the ICVS methodology is available in van Dijk et al. 2007b.

complex crimes, such as grand corruption or organized crime. ICVS-based prevalence rates cannot be reliably used as an indicator of these other types of crime. Furthermore, the sample of countries included in the ICVS has changed somewhat from one sweep to the next, which can make the analysis of trends over time difficult (Tseloni et al. 2010). Only Canada, England & Wales, Finland, the United States and the Netherlands have taken part in the five ICVS rounds.

3.2. INTERNATIONAL SELF-REPORT DELINQUENCY STUDY[3]

The first International Self-Report Delinquency Study (ISRD) was launched in 1992 by the Research and Documentation Centre (WODC) of the Dutch Ministry of Justice with the following objectives: to examine cross-national variability in patterns of self-reported delinquent behaviour; to measure the relative rank-ordering of prevalence of different types of juvenile delinquency in industrialized countries; to study cross-national variability in self-reported behaviours; and to contribute to the methodological development of the self-reported method (Junger-Tas 2010). The study was based on self-report delinquency data collected in 13 countries.[4] The target group was aged 12-18. Six of the countries used school-based samples, while the rest used samples based on population; some used city-based samples; other used national samples.

The interesting outcomes of the first comparative study (see Junger-Tas et al. 1994) encouraged the organizers to carry out a second study (ISRD-2). Data collection for the ISRD-2 took place between November 2005 and February 2007 with a larger number of countries and an expanded questionnaire.

ISRD-2 is a large international collaborative study of delinquency and victimization of 12-15-year-old students. As the primary sampling unit, it used 7th, 8th and 9th grade classes, stratified by school type. Most of the countries (22) used city-based sampling, averaging about 700 students from a large city or metropolitan area, 700 from a medium-sized city and 700 from a cluster of small towns; altogether, samples of about 2 100 students per country. However, nine countries opted for national samples.[5]

The questionnaire was collectively produced by the participants in a number of workshops. It has a core module, which every participant has to include in order to be part of the ISRD-2 study, and additional modules of questions to fit the interests of individual countries because countries differ in many respects, such as to their administrative structure, geography, size of population, degree of urbanization and culture, as well as in research resources. Most of the questions are closed-ended, often with an 'other' open-ended response possibility. The questions focus on social demographic background information (including immigration status), family, neighbourhood, school, leisure activities, and friends. There are also questions about major life events, attitudes toward violence, and (low) self-control. The questions are mostly drawn from social control and opportunity theories. A major part of the survey consists of questions about 12 different types of delinquency: carrying a weapon, group fights, assault, extortion, snatching, vandalism, shoplifting, bike theft, theft from a car, car theft, burglary and drug dealing. Students were also asked about substance use (drugs and alcohol) and victimisation (including bullying). Questions on substance use were not treated as measures of delinquency. The questionnaires were usually completed in a classroom setting, using pencil and paper. Nevertheless, a few countries (e.g. Switzerland) used a computerized administration of the questionnaires.

The selection of countries for the ISRD-2 was not based on a random sampling of the nations in the world, but on the shared interest among researchers working in universities, research institutes and government agencies in these countries. 31 countries took part in the ISRD-2, most of which are European: 15 Western European countries

3. Contributor to this section: Nieves Sanz Mulas.

4. Belgium, Finland, Germany, Great Britain, Greece, Italy, New Zealand, Northern Ireland, Portugal, Spain, Switzerland, The Netherlands and the United States (Nebraska).

5. A detailed description of the ISRD-2 methodology is available in Junger-Tas et al. 2010.

(12 of which are EU Member States),[6] 10 Eastern European countries,[7] Canada and the United States[8] and, for the first time, some countries outside Europe and North America.[9]

The ISRD-2 faced enormous challenges. First, each participating country had to obtain its own funding (with the exception of six Central and Eastern European countries which were funded by the EU) since there is not a central funding agency. Second, many problems related to language, cultural misunderstanding, and logistical and practical issues were found because of the large number of foreign collaborators. Finally, most countries faced some problems with respect to executing the classroom-based sample plan (e.g. parental consent was often not given or severely limited the response rate).

Despite these challenges, the ISRD-2 was eventually carried out and yielded findings of considerable interest for both academics and policymakers. As is well known, most of the existing available international tools for measuring crime refer only to adult criminal behaviour. However, youth crime is perceived as a major problem in many countries. In this context, the ISRD-2 study offers useful information to policymakers in participating countries, enabling them to adapt their youth policies in terms of social policy, education, prevention and youth welfare. Similarly, the ISRD-2 study will permit scholars to identify delinquency trends in a growing number of countries, while simultaneously testing criminological theories (Junger-Tas 2010).

3.3. INTERNATIONAL VIOLENCE AGAINST WOMEN SURVEY[10]

The International Violence Against Women Survey (IVAWS) is an international, comparative survey on violence perpetrated by men against women. The IVAWS project was initiated in 1997 by HEUNI. Currently, the project is coordinated by HEUNI with inputs from the United Nations Office on Drugs and Crime (UNODC), the United Nations Interregional Crime and Justice Research Institute (UNICRI) and Statistics Canada.

The IVAWS relies largely on the network, infrastructure and methodology of the ICVS. It uses both telephone and face-to-face interviews. In countries with adequate telephone coverage, and a history of telephone interviewing, CATI was used. In developing countries and countries with inadequate telephone coverage, however, face-to-face interviews were preferred.

A pilot study was initiated in November 2001, with Canada carrying out a 100-respondent pilot study at the end of the year. During the next year, pilot studies took place in 12 countries, including Argentina, Australia, Costa Rica, Denmark, Indonesia, Italy, Kazakhstan, Philippines, Poland, Serbia, Switzerland and Ukraine. After more testing and discussion, the questionnaire was finalised and now is available for use in fully-fledged surveys. Fully-fledged surveys have been carried out in 11 countries: Australia, China (Hong Kong), Costa Rica, the Czech Republic, Denmark, Greece, Italy, Mozambique, the Philippines, Poland and Switzerland.

The IVAWS measures two different types of violence against women: physical (including threats of physical violence) and sexual (including unwanted sexual touching). The most recent incidents of partner violence and non-partner violence are then explored in closer detail. Case details include information including possible injuries, need for medical care, reporting (or not reporting) to the police, and the respondent's views on how her voice was heard.

The IVAWS faces some challenges. Interviewing women directly about their experiences of physical, sexual and psychological violence raises some important ethical and methodological questions for researchers. The sensitivity of these issues raises questions about trust, confidentiality, and about the safety of respondents and interviewers,

6. Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, The Netherlands, Portugal, Spain, Sweden, plus Iceland, Norway and Switzerland.

7. Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Poland, Slovenia, plus Armenia, Bosnia-Herzegovina and Russia.

8. Four states were represented: Illinois, Massachusetts, New Hampshire and Texas.

9. Aruba, the Netherlands Antilles, Suriname and Venezuela.

10. Contributor to this section: María C. Gorjón Barranco.

as emotional trauma may be re-induced when talking about these experiences. Therefore, interviewers (only females) need to be equipped to encourage the completion of the questionnaire. However, not too much pressure should be put on interviewers or respondents if respondents refuse to participate in the survey.

In order to minimise initial refusals, interviewers introduce the IVAWS as a survey on personal safety, not as a survey on violence. In addition, efforts are taken to ensure that the interview can be conducted in private. If the respondent is unavailable for participation, measures are taken to reschedule or relocate the interview. In order to accommodate themselves to different scenarios during fieldwork, interviewers and researchers need to familiarise themselves with the community and the different social and cultural issues in the areas where they are interviewing (e.g. intergenerational households, high unemployment, dowry, customary marriages, polygamous marriages, etc.) (Nevala 2005).

Finally, it is worth noting that the IVAWS offers a basis for national action and debate on the issue, especially in countries where there is little or no information on the extent of men's violence against women.

3.4. UN SURVEYS ON CRIME TRENDS AND CRIMINAL JUSTICE SYSTEMS[11]

The United Nations Survey of Crime Trends and Criminal Justice Systems (UN-CTS) has been carried out since 1984 by the United Nations Office on Drugs and Crime (UNODC). At first, five-year intervals were used, but since then, intervals have shortened. The 11th and 12th sweeps, which are currently being analysed, cover three years from 2007 to 2009. Currently, data is being collected from member States regarding 2010, and the intention is to continue collecting information annually.

The United Nations Secretariat prepares a questionnaire to be sent to all UN Member States, asking for statistical data on reported offences. Information is also requested regarding various indicators of performance of the criminal justice system. The questionnaire is sent out in Excel format, which is intended to simplify responding and analysis.

Each Member State determines its own coordinating body, which may be, for example, a central statistical office, the office of the Prime Minister, or the Ministry of Justice.

Due to 'questionnaire fatigue', the UN Secretariat has been forced to simplify the questionnaire time and time again. Earlier questionnaires covered a broad spectrum of offences. The most recent sweep asks for crime data on intentional homicide, assault, sexual violence, robbery, kidnapping, theft, motor vehicle theft and burglary only. Working definitions of each offence are included in the questionnaire. Data is also requested on the total number of persons brought into formal contact with the police and/or the criminal justice system. Some additional questions concern, for example, the number of each type of offences in the largest city, and the number of foreign victims of violence.

The data requested is based on official statistics voluntarily submitted to the UN Secretariat. This fact has a number of weaknesses and strengths. As major weaknesses, for instance, the following can be named:

- The *general* non-response rate is very large. Even when responses are received, many questions remain unanswered (i.e. the *item* non-response rate is very large). Approximately 50% of all Member States actually complete the survey, and many of those do not complete it all (Lewis 2012). It is not clear if the statistics are unavailable, or if the respondent simply did not fill out the questionnaire as fully as possible.
- It is not necessarily clear whether the respondents are in fact sufficiently knowledgeable to respond correctly.
- The questionnaire is sent out in the six official UN languages. In many countries, the competent authorities do not necessarily have a working knowledge of any of these languages.
- Although the respondents are asked if the data reported complies with the definition given to each offence, this option is rarely used.
- Year-to-year comparability is hampered because no data is collected on possible changes in the legal definitions of offences.
- In many (in particular non-European) countries, the statistics reported to the UN Secretariat may be 'massaged', e.g. underreported.
- Since the data gathered refers to official data, it does not include hidden crime.
- All in all, data is only available for a few types of offences, for some countries, and for some time periods. The data provided may be erroneous or intentionally misleading, and will certainly, even at best, show only part of actual crime.

On the other hand, the following strengths of this source of crime data must be underlined: The data has been collected for almost thirty years and, thus, provides a source for following long-term developments. Since it is official data, it reflects the activity of the police and the courts in respect to the offence categories used, and in this respect long-term changes are of interest. In addition, validation of the data has indicated that, by and large, national-level data tends to correlate well with other available sources of crime data.

The UN data provides, in a way, a suitable 'first point of call' when looking at crime statistics internationally. The dataset is — or should be — the same as what can be secured by requesting statistics directly from the authorities of each country. Within the European context, the value of the UN dataset is somewhat offset by the fact that the European Sourcebook of Crime and Criminal Justice Statistics covers at least the same ground, and is in many ways broader, more rigorous, and more reliable.

From the point of view of the Member States of the European Union, this data source provides in addition an archive which can be 'mined' for indications of long-term developments. Many — but not all — EU Member States respond to the UN questionnaire, and in general the responses given by EU Member States are among the most comprehensive ones provided.

The UN data also provides a point of reference, since comparisons can be made to long-term developments in other European countries, and in other regions.

The processing of the data, which has been spearheaded by European working groups coordinated by HEUNI, and by global analysis coordinated by the UNODC, has improved general awareness of inherent limitations on the comparability of statistical data, has attempted to improve national data collection procedures, and has also stimulated alternative data collection exercises.

3.5. OTHER DATASETS: MEASURING ORGANIZED CRIME[12]

Organized crime and other forms of so-called emerging crime simply cannot be measured by official statistics or victimisation surveys. Official statistics do not show the true extent of this criminal activity. For instance, low rates of court cases on organised crime may be due to police corruption and political interference in prosecuting and sentencing. Therefore, low rates may point to high rather than low prevalence of this type of crime. Neither do victimisation surveys in households show the real extent of this criminal activity since ordinary households are not directly victimised by organized crime (van Dijk 2007a). Therefore, other sources have been explored. This section introduces some of them. Prof. Jan van Dijk has carried out various attempts to develop

11. Contributors to this section: Markku Heiskanen, Anniina Jokinen, Matti Joutsen and Minna Viuhko.

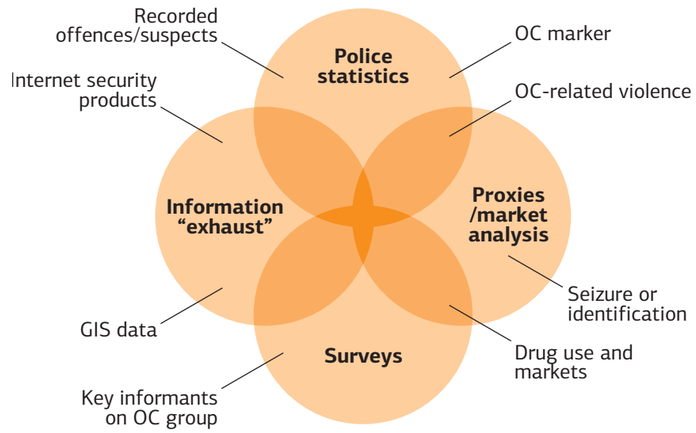
12. Contributors to this section: Markku Heiskanen, Anniina Jokinen, Matti Joutsen and Minna Viuhko.

indicators of organized crime (see, among others, van Dijk 2008, van Dijk 2007a, van Dijk 2007b). Earlier efforts include HEUNI's work on developing the so-called indexes of various forms of crime (e.g. motor vehicle crime, violent crime and corruption), that would be more robust than the basic statistics (see for example Aromaa et al. 2003). The UN Secretariat is currently looking at various indicators of the extent of emerging forms of crime (see for example Malby 2012).

The assumption is that organized crime and many forms of emerging crime are typically hidden crime (which, as a result, is not reflected in official statistics) but are also conceptually rather vague, and, thus, would not necessarily fit in with existing legal definitions. This obviously hampers international comparisons.

In such a case, the first point of call would be victimisation surveys. However, once again many forms of organized crime and corruption may involve victims who have either consented to the offence, or who, for a variety of other reasons (threat, shame, unwillingness to regard oneself as a victim), would not be willing to volunteer information to the authorities or to a researcher. Other potential sources thus need to be explored.

The following figure, taken from Malby (2012), shows the four main potential sources of data with examples for each source:



The concepts of police statistics and victimisation surveys are already familiar. Victimisation surveys directed at businesses include the International Commercial Crime Survey, which has been replicated and expanded, with more attention to corruption and extortion (see van Dijk 2008). The EU Member States included in various sweeps were Bulgaria, Czech Republic, Estonia, France, Germany, Hungary, Italy, Latvia, Lithuania, Netherlands, Romania and United Kingdom. These surveys showed that the prevalence of racketeering was high in Eastern Europe, but the phenomenon was also to be found in Central and Western Europe.

The 'surveys' category includes surveys of 'key informants'. For example, businesspeople may have first-hand experience with corruption and organized crime as it relates to their business activity. Accordingly, Van Dijk has used World Economic Forum data on the perception held by business leaders of obstacles to doing business — and one such obstacle is the prevalence of organized crime. He notes (van Dijk 2008, p. 154) that the responses appear to be remarkably stable. He has combined the results with those of the World Bank and EBRD surveys and other surveys of international

security experts to form an index of organized crime, covering a total of 156 countries, including almost all EU Member States. These again show that the level of racketeering in Europe increases from West to East (ibid., pp. 154-156). Van Dijk has correlated this index with data on the perception of corruption (ibid., pp. 159-161; among the countries covered are 23 EU Member States). The results for the EU Member States also suggest a positive correlation between the two. Another exercise involved comparing the index with perceptions of the scope of shadow economy; a strong correlation was found (ibid., pp. 161-162). Bringing all of these together, van Dijk constructs a 'composite organized-crime index' (ibid., pp. 162-169 and 359-362). Again, most EU Member States are included.

Transparency International (TI) has, for an extended period of time now, brought together different surveys regarding the perception of corruption. Van Dijk compares these with other available measures, and concludes that the TI results are 'moderately strongly' correlated with experiences of victimisation through corruption (ibid., pp. 182-187, at p 187). The Centre on Organized Crime has carried out a pilot study gauging perceptions of organized crime among the general public in Bulgaria, FYR of Macedonia, Montenegro and Serbia.

Market measures look at such factors as the movement of illicit goods (cigarettes, drugs, persons), or alternatively at changes in demand. While such data may be poor at indicating the scope of the market, it can help in suggesting an expansion or contraction; in other words trends in the market, and consequently in organised crime.

'Proxies' refers to datasets which in themselves can *reflect* the scope of crime. If, for example, organized crime is typified by the use of extreme violence, one can look at the number of unsolved homicides or, more specifically, the number of young male victims of firearm-related homicides as an indicator of organized crime. This data is being collected in the context of the UN surveys and is currently being analysed by the UNODC (ibid., pp. 157-159).

Information 'exhaust' refers to information that is gathered for other purposes, but which may reflect changes as a result of changes in crime. Examples include data on the installation of security devices in computer systems (correlation with the perception/reality of computer crime), the installation of home burglar alarms (correlation with the perception/reality of residential burglary), and the number of stolen motor vehicles that remain untraced (correlation with organized theft).

The indicators mentioned above provide the best available option to measure the immeasurable: hidden crime, organized crime and emerging forms of crime. Depending on the dataset used, the data itself will be quite reliable (as is the case with stolen motor vehicles that have not been recovered; due to car insurance, the reporting rate in Europe presumably is near 100 %). However, datasets that are based on perceptions are inherently dependent on the validity of this perception, and on how the persons in question define the phenomenon. Similarly, using one dataset to assess something for which it was not designed is risky. Ultimately, and as is the case with all 'reflections', the image may be quite different from reality.

4. DATASETS AT THE EUROPEAN LEVEL

This section reviews the most important existing datasets on crime at the European level, focussing again on the organization which collects the information, the years covered, the geographical coverage, the types of crime, the weaknesses, and the strengths and weaknesses as well as the relevance of the data source.

4.1. EUROPEAN CRIME AND SAFETY SURVEY[13]

The last wave of the ICVS was carried out with some financial support from the European Commission in some EU Member States, where it was, therefore, called the European Union International Crime and Safety Survey (EU ICS). A European consortium led by Gallup Europe comprising UNICRI (Italy), Gallup Hungary, the Max Planck Institute for Foreign and International Criminal Law (Germany), CEPS/INSTEAD (Luxembourg) and GeoX (Hungary) conducted the survey.

The consortium received a grant from the European Commission, DG Research, to carry out the EU ICS survey in 2005 among the 'old' 15 EU Member States,[14] and committed to include at least three of the 'new' members (Poland, Estonia and Hungary).

Fieldwork for the EU ICS was conducted by Gallup Europe in the 15 'old' EU Member States and Hungary, using the so-called ICVS methodology. Data collection in Estonia and Poland was organized independently in 2004/2005, but in close consultation with the EU ICS consortium. Both countries used elements of the same standardised methodology, including the adjusted ICVS questionnaire.

CATI was employed in 16 of the 18 country surveys. Interviews were carried out via fixed telephones, with the exception of Finland, where an additional sub-sample was interviewed via mobile phones. Face-to-face interviews were conducted in Poland and Estonia.[15] All in all, both modes produced the same prevalence rates.

The subjects of the survey were residents of the countries mentioned and aged 16 and older. The targeted number of actual interviews in most countries was 2 000. The samples were divided into a larger national part (with a targeted size of 1 200) and a relatively smaller capital city part (targeted N = 800). No additional interviews were conducted in the capital cities of Luxembourg, Poland and Estonia.

The types of crime included are identical to those included in the previous ICVS, such as vehicle-related crimes (theft of cars, thefts from or out of cars, motorcycle theft and bicycle theft), burglary, theft of personal property and pickpocketing, and contact crimes (robbery, sexual offences, and assaults and threats). Through a set of special questions the survey also collects information on non-conventional crimes such as petty corruption (bribe-seeking by public officials) and consumer fraud.

The most important changes to the ICVS questionnaire for the 2005 EU ICS were: an additional newly designed question on 'hate crimes', including those against immigrants, inclusion of a question on exposure to drug-related problems that was previously used in three Eurobarometer surveys, deletion of the question on car vandalism and of some other secondary questions in order to reduce the length of the interview, and translations of new questions in their relevant languages made by Gallup Europe (van Dijk et al. 2007b).

As it was already noted with respect to the ICVS, the EU ICS overcomes the well-known shortcomings of the police statistics on recorded crime. Therefore, if the EU ICS is repeated in coming years it will enable true comparisons of the levels of crime across Europe.

13. Contributor to this section: Rita Haverkamp.

14. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and United Kingdom (England/Wales, Scotland and Northern Ireland).

15. A detailed description of the EU ICS methodology is available in van Dijk et al. 2007a.

16. Contributors to this section: Maria Doichinova and Maria Yordanova.

4.2. EUROPEAN SOCIAL SURVEY[16]

The project under which the European Social Survey (ESS) is carried out is directed by a Core Scientific Team led by Rory Fitzgerald from the Centre for Comparative Social Surveys at City University London (United Kingdom). The six other institutions represented are: NSD (Norway), GESIS (Germany), The Netherlands Institute for Social Research/SCP (Netherlands), Universitat Pompeu Fabra (Spain), University of Leuven (Belgium) and University of Ljubljana (Slovenia). Except for the aforementioned examples, every respondent country has a partner organization or institution which carries out the survey in practice.

The ESS is a biennial survey, the first round of which was carried out in 2002. Round 5 was carried out in 2010. Round 6 is presently being prepared. Final datasets are usually published on the ESS data server six to nine months after the field work has been carried out.

The geographical coverage has been extended, with Round 5 reaching 26 countries.[17]

The ESS is a repeat cross-sectional survey. The unit of analysis is individual (persons aged 15 and over) residents in private households, regardless of their nationality, citizenship, language or legal status, living in the participating countries. The survey involves strict random probability sampling, a minimum target response rate of 70% and rigorous translation protocols. The hour-long face-to-face interview includes questions divided into 'core modules', which remain relatively constant in every round, and two or three rotating modules which vary with every round. The last round (2010) had two rotating modules — 'Work, Family and Well-being: The Implications of Economic Recession', and 'Trust in Criminal Justice'. The latter captures information on trust, legitimacy, cooperation and compliance in relation to criminal justice. It also tests theories of institutional legitimacy. It was elaborated as a direct outcome of the project EURO-JUSTIS, funded under the FP7, which was carried out by part of the FIDUCIA project team (see Hough & Sato 2011).

The core module of all survey rounds includes a question on the trust of the interviewees in the police and the justice system. The concept of trust is rooted in the interviewees' assessments of crime trends in terms of the rates of the most common and visible crimes, and of the overall effectiveness of the police and the justice system in the country.

One of the 'rotating' modules of Round 5, which provides an in-depth focus on a series of particular academic or policy concerns, regards public trust in the police and courts. It includes information on the citizens' experience with the police and courts (how often has the interviewee interacted with them, to what extent were they satisfied with their work, are the police and courts treating victims/defendants equally, are they successful in solving criminal cases, what are the levels of corruption, etc.) In addition, the survey measures to what extent the interviewees' moral views match their views of the police and laws, to what extent they tend to back the decisions of the police and courts, and to what extent they are willing to cooperate with the police/courts by calling the police, testifying, etc.

The ESS also measures the levels of tolerance towards people with a different sexual orientation, ethnic background, race, religion or social status. In the core module of Round 5 there are questions on whether interviewees have been subjected to discrimination and on what grounds.

All rounds include questions on personal security — whether the interviewee or a member of their household has been a victim of burglary or physical assault during the last five years.

Another question concerns the perception of safety — how safe does the interviewee feel walking in their residential area.

The questions measuring the perception of fear of crime have evolved during Round 5 of the survey to include the fear of one's home being burgled as well as fear of becoming a victim of violent crime, and how these fears affect the quality of the interviewee's life.

The ESS asks questions measuring the interviewees' inclination to commit a specific crime such as making an exaggerated or false insurance claim, or committing a

17. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France (not including Corsica and other overseas territories), Germany, Greece, Hungary, Ireland, Israel and the Jewish population residing in the West Bank, the Netherlands, Norway, Poland, Portugal (Mainland), Russian Federation, Slovakia, Slovenia, Spain (including the North-African cities of Ceuta and Melilla), Sweden, Switzerland, Ukraine and the United Kingdom (the Channel Islands, the Isle of Man, and the area north of the Caledonian Canal in Scotland - that is most of the Highlands and the Islands regions - are excluded).

traffic offence such as speeding or crossing red light, and how likely they believe that this would be punished.

In terms of completeness the ESS covers far fewer types of crimes than the ICVS. Having in mind the profile of the ESS, which is not designed to be a victim survey, it covers questions on burglary and physical assault and stresses the sense of security of citizens in view of the crime rate in their country.

The ESS fails to register the repeatability of a crime, since it does not ask how many times the respondent has been a victim of crime during the previous five years. This should be kept in mind when interpreting the ESS data.

On the other hand, the ESS has a few strengths that deserve to be mentioned. The ESS Round 5 measures not only the interviewees' perceptions about the chance of becoming a victim of crime, but also their moral views which would allow them to commit a crime (to the extent to which the respondents are prepared to admit this in an interview).

Since it is biennial, the survey makes it possible to follow the prevalence of the types of crimes which are part of the core unit in some 30 countries in Europe, going beyond the borders of the European Union. Thus, the ESS proves to be a valuable source to be used together with other types of crime surveys and mainly as a source of contextual data on the living conditions of the population and the relation with the assessment of crime trends in the country in question.

The type of respondents selected and the period of five years, during which the respondents report being crime victims, fits the UNICRI methodology for the ICVS, which allows comparability with many crime surveys.

4.3. EUROPEAN SOURCEBOOK OF CRIME AND CRIMINAL JUSTICE STATISTICS[18]

The European Sourcebook of Crime and Criminal Justice Statistics (European Sourcebook) has four consecutive editions, each developed by a Group of Experts with the support of different international institutions and national governments. The first edition was developed and published on the initiative of the Council of Europe. The second edition was developed with the financial support of government agencies from the United Kingdom (Home Office), Switzerland (Ministry of Foreign Affairs through the University of Lausanne School of Criminal Sciences) and the Netherlands (Ministry of Justice), and was published by the Dutch Ministry of Justice. The third edition was again published by the Dutch Ministry of Justice and was compiled thanks to the support of several institutions and organizations (the Swiss Federal Office of Statistics and the Dutch Ministry of Justice provided financial and logistic support, the French Centre for Sociological Research on Law and Criminal Justice Institutions – CESDIP assisted in data validation, the European Commission, the German Federal Ministry of Justice and the British Home Office organised one meeting each, etc.). Finally, the fourth edition, published by the Dutch Ministry of Justice, was developed with the support of the European Commission through a project financed under the AGIS Programme.

The European Sourcebook is not based on a specifically designed survey but is rather an instrument for collecting official statistics and data from sociological surveys carried out in the area of crime and criminal justice. Information was collected through a network of national correspondents. The majority of national correspondents were either public officials (representatives of judicial authorities, national statistical offices, etc.) or researchers (working for universities or other research institutes). Each national correspondent collected the data on their own country and used this to fill in the European Sourcebook questionnaire. The collected data were then validated and recalculated into ratios per 100 000 in population.

18. Contributor to this section: Dimitar Markov.

This dataset is divided into five chapters: police data (information on offences and suspected offenders known to the police, and information on police staff in each country), prosecution statistics (information on the steps of decision-making at the prosecutorial level, such as initiating and abandoning prosecutions, bringing cases to court and sanctioning offenders by summary decisions, compulsory measures during criminal proceedings, etc.), conviction statistics (information on persons who have been convicted, e.g. found guilty according to the law, or have committed one of the selected offences), correctional statistics (information on the number and the capacity of penal institutions, and data regarding the 'stock' and 'flow' of non-custodial sentences) and survey data (data from the ICVS regarding offences experienced and reported to the police, as well as on attitudes towards the police, and data from the ISRD).

As noted, the European Sourcebook has four consecutive editions, each covering a different period of time. The first edition was published in 1999 and covers the time frame 1990-1996, the second edition, published in 2003, covers the period 1995-2000, the third edition was published in 2006 and covers the years 2000-2003, and finally the fourth edition was published in 2010, covering the 2003-2007 period.

This source includes data about European countries only. Each of the four editions has a slightly different geographical coverage. The first edition offers data on 36 countries, the second edition, on 40 countries, the third edition, on 37 countries, and the fourth edition, on 42 countries.[19]

The European Sourcebook covers several criminal offences, providing a standard definition for each of them and listing the countries which were not able to meet entirely the definition, with an indication of which elements of the definition they were unable to meet. With a few exceptions, all editions covered the following categories of crimes: total criminal offences, traffic offences, intentional homicide, bodily injury (assault), aggravated bodily injury (assault) (this subcategory was included for the first time in the fourth edition), rape, sexual assault (this category of offences was included for the first time in the fourth edition), sexual abuse of minors (this category of offences was included for the first time in the fourth edition), robbery, armed robbery (this subcategory was used only in the first edition), theft, theft of a motor vehicle, bicycle theft (this subcategory was included only in the first edition), burglary, domestic burglary, fraud (this category of offences was included for the first time in the fourth edition), offences against the confidentiality, integrity and availability of computer data and systems, money laundering, corruption in the public sector, drug offences, drug trafficking, and aggravated drug trafficking (this subcategory was introduced for the first time in the fourth edition).

This source of crime data suffers from certain flaws. As explained by an explicit disclaimer included by the authors in each edition, one of the major weaknesses of this instrument is the limited comparability of the data. Although the aim of the European Sourcebook is to present comparable information on crime and criminal justice in Europe, both the chronological comparison of data for one country and the international comparison between countries should not be over-interpreted. There are various reasons for the limited comparability. Within one country, changes from one year to another might be due not only to the increase or decrease in the number of offences, but also to changes in the legislation or modifications in the rules for collecting and presenting statistics. International comparison is even more difficult because countries differ widely in the way in which they organise their police and court systems, they define their legal concepts, and they collect and present their statistics. According to the European Sourcebook 'In fact, the lack of uniform definitions of offences, of common measuring instruments and of common methodology makes comparisons between countries extremely hazardous' (Aebi, M.; de Cavarlay, B; Barclay, G. et al.

19. Participating countries in the fourth edition are: Albania, Armenia, Austria, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, FYR of Macedonia, Turkey, Ukraine and United Kingdom (England/Wales, Northern Ireland and Scotland).

2010, p. 22). To avoid misinterpretation of data, the European Sourcebook provides numerous footnotes and technical information explaining the figures in each table.

Another shortcoming of the European Sourcebook is the fact that not all data is available for all countries. In general, the European Sourcebook presents only the data collected by the national correspondents. Where such data was not available, the figures for the respective countries are missing. In fact, there are many tables where information is available for less than half of the countries.

Despite the comparability issue, the European Sourcebook is a unique Europe-wide instrument for the collection and presentation of statistics on crime and criminal justice. Among the advantages of the European Sourcebook are, for instance, the methodology for data collection and presentation (aimed at ensuring maximum information accuracy by introducing standard definitions of offences and providing detailed country-by-country explanations of what is actually reported), the opportunities (although subject to significant limitations) for comparative analysis, and the broad scope in terms of geographical coverage and types of offences (in particular with the inclusion of the new categories of offences in the most recent edition).

4.4. EUROPEAN UNION MINORITIES AND DISCRIMINATION SURVEY[20]

The European Union Minorities and Discrimination Survey (EU MIDIS) (see FRA 2009) is the first study on the rights of minorities in Europe. The contractor which undertook the survey is Gallup Europe under the supervision of FRA (European Union Agency for Fundamental Rights) staff. Overall, 23 500 immigrants, national and ethnic minority persons representing all 27 EU Member States were interviewed face-to-face during 2008. The respondents were selected predominantly in 22 of the 27 Member States through random sampling procedures. A sample of between 500 and 1 500 respondents were interviewed in each EU Member State. In addition, 5 000 members of the majority population, living in the same areas as the minorities, were interviewed face-to-face in 10 Member States. This allowed the comparison of results concerning certain key questions.

Groups of respondents in each Member State were selected for interview on the basis of:

- information supplied to the FRA by its Racism and Xenophobia Network (RAXEN) of 27 National Focal Points (NFPs), which provide the Agency with detailed national annual reports on the vulnerability of different minorities to discrimination and victimisation in each Member State;
- identification of the largest minority group or groups in each country, which had to reach a minimum overall size of 5% to be sufficient for random sampling in specific areas;
- availability to be surveyed in more than one Member State, which allowed for the creation of 'aggregate' groups (such as 'North Africans') for comparison of results between countries.

The results of this survey are representative for the groups surveyed in the areas where the research was undertaken.

The survey sampled persons (male and female) aged 16 years and older who: 1. self-identify themselves as belonging to one of the immigrant, national minority or ethnic minority groups selected for sampling in each Member State; 2. are usually residents of one of the sampled cities or areas of the Member State being surveyed; 3. have been residents of the Member States for at least one year; and 4. have sufficient command of (one of the) the national language(s) of the Member State being surveyed to take part in a simple conversation with the interviewer.

In each household that contained persons from the designated target groups, up to three eligible persons were invited to take part in the survey.

Overall experiences of criminal victimisation across five types of crime, specifically property crime (theft of or from a vehicle, burglary and theft of other personal property) and in-person crime such as experiences of assault or threat, and serious harassment, were observed in the survey, including whether any of these crimes were committed with a racist motive.

This study aims to detect discriminatory criminal justice procedures against minorities. The study also is an attempt to understand various crime victimisations experienced by minorities in EU countries since 2003. Since it is a cross-sectional and self-reported study it has the limitations and weaknesses inherent in such studies. However, it provides a great deal of information regarding minorities in conflict with the law, and the perceptions that minorities have of the police, law and order.

Among the weaknesses of this source of data, it should be mentioned that the questionnaire does not contain a sufficient number of questions (variables) to measure all of the potent factors which may have an impact on crime victimisation. In addition, the sample size of this survey is not enough for detecting a possible correlation between crime victimisation variables and other independent variables.

As to its strengths, using a standard questionnaire and survey procedures facilitates comparison between countries. Furthermore, well organised and detailed sample selection procedures enhance the quality and reliability of the survey.

Finally, EU MIDIS questions how the crime statistics came into existence in the first place by questioning whether the police in Europe approach minorities differently than they do 'real Europeans'. Thus, EU MIDIS allows us to question the validity and reliability of crime statistics in Europe.

4.5. EUROSTAT CRIME STATISTICS ('Statistics in Focus')[21]

Eurostat is the statistical office of the European Union. It received a mandate under the *2004 Hague Programme*[22] to develop comparable statistics on crime and criminal justice. A series of measures towards this end were completed under the *2006-10 EU Action Plan on Developing a comprehensive and coherent EU strategy to measure crime and criminal justice.*[23] Since the conclusion of the Action Plan, the system is being enhanced and extended as part of the implementation of the 2009 *Stockholm Programme.*[24]

The methodology used in this publication draws upon a methodology developed by the European Sourcebook of Crime and Criminal Justice Statistics. In particular, the definition and measurement of criminal offences, and the Surveys on Crime Trends and Criminal Justice Systems conducted by the UNODC. Countries were asked to adhere to a standard definition when assembling the figures and to provide details regarding any divergences.

The results of the data collection are presented in the so-called 'Statistics in focus' publication series. The source of information on crime numbers for these statistics is the formal police records of the contributing countries. In addition, the data includes the size of the prison population and the number of police officers.

The most recent publication was in 2012, 'Crime and Criminal Justice - Issue number 6/2012' (see Tavares et al. 2012.), which is based on the number of offences recorded by the police during the period 2006-2009**.**

The years for which information is available are as follows:

- Total crime — time series are available from 1950 for some countries (Denmark,

20. Contributors to this section: Osman Dolu, Hasan Büker and Şener Uludağ.

21. Contributors to this section: Hasan Büker, Osman Dolu and Şener Uludağ.

22. The Hague Programme: Strengthening Freedom, Security and Justice in the European Union. Official Journal C53 of 03 March 2005.

23. Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010 (COM (2006) 437 Final of 07 August 2006).

24. The Stockholm Programme — An Open and Secure Europe Serving and Protecting Citizens. Official Journal C115 of 04 May 2010.

Germany, Estonia, France, Ireland, the Netherlands, Poland, Finland, United Kingdom: England & Wales) and from 1980 for most other countries.

- Specific offences — time series are available from 1993.
- Police officers — time series are available from 1993.
- Prison population — time series are available from 1987.

Data collection covers not only the current 27 EU Member States, but also EU candidate countries (Croatia, Montenegro, FYR of Macedonia, Turkey), EU potential candidate countries (Albania, Bosnia & Herzegovina, Kosovo, Serbia), European Free Trade Association/European Economics Area (EFTA/EEA) countries (Iceland, Liechtenstein, Norway, Switzerland), other European countries, such as the Russian Federation, and Organisation for Economic Cooperation and Development (OECD) countries, such as Canada, Japan, New Zealand, the United States and South Africa.

The topics covered include total crime (offences against the penal code or criminal code), homicide, violent crime, robbery, domestic burglary, motor vehicle theft and drug trafficking, as well as the prison population and the number of police officers.

This data source is composed of official statistics from several countries so it faces the respective challenges of being an international data source. Each contributing country has its own way of defining and measuring certain crimes, which differs considerably in approach and coverage. Thus, it is necessary to be cautious before directly comparing trends across the contributing countries. The following issues must be considered when assessing the number of crimes per country: differences in the legal and criminal justice systems, differences across societies with respect to reporting crimes to the police and differences with respect to police practices for recording reported crime, the point at which crime is measured and the way in which multiple offences are recorded.

In addition to data on the number of crimes officially recorded and submitted by the police, this source also covers prison populations. Similar to the police and their practices, there are certain issues regarding the prison figures that should be considered when making assessments based on those numbers. Figures for the prison population may be affected by the following factors: the workload (number of cases dealt with) of courts, the percentage receiving a custodial sentence out of the total sentences decided by the courts, differences across the countries in the length of the imprisonment sentences imposed for a certain crime, differences across the countries in respect of the size of the population on remand, the date of the survey, especially where amnesties (or other early release arrangements) apply, and differences across the countries with respect to pre-trial and on-trial detaining practices (the legal systems of some countries may be more prone to keeping suspects in detention before and during the trial which, consequently, increases the size of the inmate population).

However, this dataset also has some strong points, such as the number and the type of the countries covered. As mentioned above, the data provides information on the EU Member States, candidate countries, selected potential candidate countries and EFTA/EEA countries. In addition, information has also been collected and is made available on the Eurostat website for some other countries outside Europe.

Regarding the differences in defining certain crimes, which were mentioned as a potential weakness above, the relevant SDMX (Statistical Data and Metadata eXchange) files of the data provide details of the divergence of national figures from the proposed standard definition. This is actually a positive step towards understanding which part of the information is more comparable than the others when making general inferences from the data.

5. USE OF EXISTING DATASETS

The previous two sections reviewed the main existing datasets on crime. In this section, there will be a brief summary of the extent to which those datasets are utilized.

Most of the analysed datasets are primarily used in academic research in the field of criminal law and criminology. In fact, there is a large number of academic studies that have been based on those sources of crime data. Mentioning all of them would not be possible in this report, so a few examples will be provided. Among the most recent literature in which ICVS findings are cited are Tseloni et al. (2010) and van Dijk (2007b). UN-CTS results are used in Harrendorf et al. (2010) and ESS findings are used in Ceobanu (2011), Fitzgerald et al. (2012) and Kääriäinen & Sirén (2011). Some academic studies do not focus only on one of those datasets, but compare the results of different datasets (see for example Aebi et al. 2002). On the other hand, it appears that datasets on specific subjects, such as the IVAWS and the EU MIDIS, are less used by researchers.

The attention paid by researchers to the datasets mentioned does not correlate to the attention paid by policymakers. In fact, the relevance of those tools for policymakers is rather limited (a topic that will be analysed in depth in D.2.2), whether we consider official statistics on recorded crime or survey-based data. With respect to the official statistics, the European Sourcebook itself admits that 'the issue of whether or not it is good practice to use official criminal justice statistics for decision-making in crime policy or for conducting scientific studies is one of the classic debates of criminology.' As previously mentioned, official statistics face a large number of challenges (e.g. hidden crime). However, victimisation surveys offer an alternative for policymakers when developing crime policy. Nevertheless, the influence of victimisation surveys on the process of crime policy decision-making ranges from intensive to low in a certain number of European countries, as Zauberman's research (2008) has shown. According to this study, in England and Wales, the British Crime Survey has become the ordinary point of reference when measuring crime and it is used in support of the evaluation of policies developed by the government. In Belgium, the Security Monitor is linked explicitly to the local security contracts passed between the federal state and the towns, and the *Politiemonitor Bevolking* constitutes an integral part of the police organisation. In Spain, including Catalonia, victimisation surveys do not seem to have influenced the crime policy. In France, the results of national surveys are being used by the *Observatoire national des zones urbaines sensibles* and the *Observatoire national de la délinquance*). In Germany, victimisation surveys have no notable impact on public policies, notwithstanding the fact that the local surveys have been commissioned by municipal authorities in support of prevention and security programmes. Furthermore, surveys in Italy are not drawn upon by policymakers with the exception of certain regions (Emilia Romagna) and a few municipalities (Modena, Bologna). Thematic surveys on specific populations (e.g. those focused on violence against women or on young people), however, seem to have notable impact, as has been seen with the surveys on violence against women in Spain and with the surveys on school violence in Germany. Zauberman's study mainly refers to national victimization surveys, not to the international victimisation surveys mentioned in this report. However, Zauberman does point out that the ICVS has very limited use, essentially due to the small size of samples that cannot compete with national surveys.

In addition, it must be underlined that most of the analysed datasets only focus on common crime to which the general public is exposed (theft, burglary, assault, etc.), but they ignore the so-called 'new' forms of crime, specifically those forms of crime mentioned in art. 83.1 TFEU.[25] As a consequence, EU policymakers cannot draw upon those datasets when developing crime policy related to 'new' forms of crime.

25. Terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit trafficking in firearms, money laundering, corruption, counterfeiting of means of payment, computer crime and organized crime.

6. CONCLUSION

The analysis of the most representative sources of data on crime leads us to the following conclusions.

1. At present, data on crime and criminal justice is collected by several organisations worldwide, and, at the European level, for different purposes such as making comparisons of crime trends. Each dataset, be it official recorded data or survey-based data, has its advantages and disadvantages.
2. On one hand, official recorded data might be used for measuring crime trends within one country over time. However, it does not allow for making reliable comparisons of crime trends across countries, owing to the different procedures followed in each country when recording and reporting offences, and the different legal definitions of the types of crime. In addition, official figures ignore hidden crime. Even within an individual country, official recorded data must be used cautiously because changes in crime trends might be due not only to the increase or decrease in the number of offences, but also to changes in the legislation or modifications in the rules for collecting and presenting statistics. On the other hand, survey-based data reflects the amount of hidden crime and, if the surveys are carried out using standardised methodology and questionnaires, reliable international comparisons on crime are possible.
3. Notwithstanding the large number of existing datasets on crime, they are not being used to their full potential. They are primarily employed by researchers to compare crime trends across countries. Policymakers, however, barely use them for developing crime policy. This seems to be a consequence of the existing disconnect between researchers, who can read and interpret the data, and policymakers, who would use the data. Therefore, it is necessary to encourage cooperation between academia and policymakers, opening a path towards evidence-based policy. However, getting research into practice is a difficult process. In order to achieve it, better dissemination of research findings among policymakers is crucial. Thus, crime data should be produced in a form that senior policymakers can understand and use. Nonetheless, simplifying the data for presentation purposes can lead to misleading interpretations.
4. Most of the existing datasets focus on conventional crime and ignore emerging forms of criminality, such as organized crime and grand corruption. Therefore, there is need for more and improved indicators of these new forms of crime, especially with respect to the ones that the FIDUCIA project intends to examine: trafficking in human beings, trafficking of goods, criminalisation of migration and ethnic minorities, and cyber-crimes.

APPENDIX 1: ELECTRONIC SOURCES OF INFORMATION

European Crime and Safety Survey (EU ICS)
http://www.europeansafetyobservatory.eu/
European Social Survey (ESS)
http://www.europeansocialsurvey.org/
European Sourcebook of Crime and Criminal Justice Statistics
http://europeansourcebook.org/
European Union Minorities and Discrimination Survey (EE MIDIS)
http://fra.europa.eu/fraWebsite/eu-midis/index_en.htm
Eurostat Crime Statistics (“Statistics in Focus”)
http://epp.eurostat.ec.europa.eu/portal/page/portal/crime/introduction
International Crime Victims Survey (ICVS)
http://www.unodc.org/unodc/en/data-and-analysis/Crime-Victims-Survey.html
International Self-reported Delinquency Study
http://webapp5.rrz.uni-hamburg.de/ISRD/JDEB/
International Violence against Women Survey (IVAWS)
http://www.heuni.fi/12859.htm
UN Surveys on Crime Trends and the Operations of Criminal Justice Systems (CTS)
http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html

Work Package 2
State of the art:
Crime trends

2.2

Paper on Improving the policy relevance of existing crime data

by: Ana Pérez Cepeda, Demelsa Benito Sánchez, María C. Gorjón Barranco

EXECUTIVE SUMMARY

The FIDUCIA research project (New European Crimes and Trust-based Policy) is funded primarily by the European Commission under the 7th Framework Programme for Research and Development. FIDUCIA will shed light on a number of distinctively 'new European' criminal behaviours that have emerged in the last decade as a consequence of developments in technology and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation: FIDUCIA will build on this idea and propose a 'trust-based' policy model in relation to emerging forms of criminality.

Work Package 2 – 'State of the art (1): crime trends' – synthesises much of the existing literature regarding crime trends in Europe, and offers the preliminary context against which different approaches to the regulation of crime can be assessed in a comparative perspective. The present deliverable, 'D.2.2. Study on the policy relevance of existing data', analyses the policy relevance of available crime data for developing criminal policy at the European level, and examines its potential for further improvement.

At present, there is a lack of high-quality comparative data on crime trends. This fact inevitably hampers the adoption of evidence-based policies. Several initiatives have already been launched by the European Union in the past years underlying the necessity of gathering reliable data on crime and using such data for developing European criminal policy. The purpose of this paper is, firstly, to envisage a study of the initiatives that have already been undertaken. Then a brief description of the decision-making process in criminal matters at the European level will be provided, with the aim of determining the point in the entire process at which crime data should be used by policymakers and if the available crime data are currently being integrated into the development of criminal policy. Finally, since the results of our research showed that European policymakers make little use of existing data, the paper will analyse the main reasons for such limited use and provide some proposals to improve the degree of policy relevance of the data.

1. INTRODUCTION

The purpose of this paper is to identify the main reasons why the existing data on crime trends have limited influence on the decision-making process at the European level, and to make recommendations for improvement.

In recent years, we have repeatedly heard calls on the national and international levels for 'evidence-based policy', or, in other words for 'the application of scientific experience and scientific methods of decision-making in each phase of the political process' (Yordanova 2011). The starting point of evidence-based criminal policy is, certainly, the existence of reliable data. However, at present we lack high-quality comparative data on crime trends at the European level, notwithstanding the fact that several organisations collect data in this field (see deliverable D.2.1, 'Review of existing efforts to describe trends at European level').

In order to improve the reliability of existing data and to encourage their use in decision-making on criminal matters, the European Union has been working for years on the development of a comprehensive and coherent strategy to measure crime and criminal justice. The next section of this paper presents the most representative work carried out by the European Union in this field, paying close attention to the *Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens*, which highlights the necessity of developing reliable data on crime as a prerequisite for evidence-based

decisions on a number of matters within the area of freedom, security and justice.

The third section of this paper briefly describes the decision-making process on criminal issues in the European Union. Here, we try to achieve two main goals: first, to determine the point in the process at which crime data should be used by policymakers and, secondly, to identify if existing crime data are currently being used in the development of criminal policy. With respect to the first goal, we reach the conclusion that the most appropriate point in the policymaking process at which data on crime trends should be examined is the pre-legislative phase. It is at that point that the European Commission, which is in charge of the legislative initiative, can receive the necessary information from experts and the civil society. And it is at that point that the use of a mechanism developed during the last decade at the European level, the impact assessment of policies, becomes crucial. The impact assessment of policies is a process aimed at providing evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impact. When developing criminal policy at the European level, impact assessments should reflect existing data on crime. However, our study shows that, in the first place, the use of impact assessments in criminal matters is currently limited: only five impact assessments have been carried out in this field at the European level. Moreover, the use of crime data within existing impact assessments seems to be very rare: only three of the five impact assessments that have been carried out on criminal matters mention data on crime trends. Although they contain some references to crime data, the need for improvement is underlined.

The fourth section of this work provides a synthesis of the main reasons why existing data on crime trends are insufficiently embedded in the European decision-making process. For this purpose, a thorough review of existing literature on the topic was carried out. Moreover, an effort was made to engage European policymakers responsible for developing criminal policy in a discourse on the topic. More precisely, a questionnaire was directed at the members of the Committee on Civil Liberties, Justice and Home Affairs (LIBE), which is responsible for most of the legislation linked to the area of freedom, security and justice, in which they were asked about their views on the shortcomings of existing data on crime trends. Although the questionnaire was sent three times between March and June 2012, unfortunately only one response was received. This complicated the development of the fourth section of this paper, since the research had to be based only on existing literature. As to the structure of this section, the reasons why available data on crime trends have limited policy relevance within the decision-making process are divided into two groups: 1) reasons related to the limitations of existing data; and 2) reasons related to the policymaking process. A list of recommendations is then provided to overcome the limitations of existing data and to improve their policy relevance in the future.

Finally, the main results of this study are summarised in the conclusion.

2. THE NEED TO COLLECT CRIME DATA AT THE EUROPEAN LEVEL MEASURING CRIME IN THE EU: STATISTICS ACTION PLAN 2011-2015

The European Union Strategy for the Beginning of the New Millennium is based on reliable and valid data on organised crime and offenders.[26] Rules on collecting data at the European level are contained in Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009,[27] the objective of which

26. The Prevention and Control of Organised Crime: A European Union Strategy for the beginning of the New Millennium (Official Journal C124 of 3 May 2000).

27. Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (Official Journal L87 of 31 March 2009).

is to establish a legal framework for the development, production and dissemination of European statistics (Article 1). The Community statistical authority responsible for carrying out this legal framework is Eurostat (Article 6). The production of Community statistics is also guided by the Community Statistical Programme 2008-2012,[28] Annex II of which includes Title IV, which sets out the need to develop statistics on crime and criminal justice in order to implement the Hague Programme, stressing the need to develop new data sources on organised crime

2.1. EARLIER INITIATIVES

The progressive establishment of the area of freedom, security and justice was a new objective set for the European Union by the Treaty of Amsterdam. Under the Treaty of Amsterdam, the first phase in establishing the area of freedom, security and justice came to an end on 1 May 2004. The Tampere European Council of 1999 had determined the programme of work to be done by then. The Communication from the Commission that assessed that program[29] stated the following priority, among others, in this area of freedom, security and justice for the fight against serious crime: 'statistical work and collection of information on the development of crime and public perceptions of the level of security should be improved, in particular through a harmonise d information collection system which is structured and regular.' The Hague Programme continued working in this direction.

The Hague Programme: Strengthening Freedom, Security and Justice in the European Union[30]

The Hague Programme provided the rules for establishing policies within the area of freedom, security and justice during the years 2005-2009. Among other issues, the Commission was required to translate the objectives of the Hague Programme into concrete actions contained in an Action Plan based on EU crime statistics,[31] and to set up a group of experts to assist in this task. In addition, in order to enhance security, knowledge of organised crime had to be improved. Also gathering and analysing information had to be strengthened.

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010[32]

The EU Action Plan demanded by the Hague Programme was crystallised in this Communication from the Commission, whose aim was to tackle the lack of reliable and comparable information on crime trends, levels and structure in Europe. The Communication included a 'table of actions', from among which particular reference should be made to the establishment of a methodology for a common module of a victimisation survey that would allow reliable comparisons among Member States, and the development of specific indicators in areas related to cross-border crime, such as corruption, counterfeiting and piracy of products, fraud, illicit trafficking in cultural goods, money laundering, sexual exploitation of children and child pornography, and terrorist financing.

The Commission also established a group of experts to help in implementing the Action Plan:

Commission Decision of 7 August 2006 setting up a group of experts on the policy need for data on crime and criminal justice33

In accordance with this Decision, the group of experts should be composed of individuals competent to consider the policy needs and to advise on the effective use of

28. Decision 1578/2007/EC of the European Parliament and the Council of 11 December 2007 on the Community Statistical Programme 2008-2012, which substitutes the Community Statistical Programme 2003-2007 (Community Statistical Programme, as adopted by Decision No 2367/2002 / EC of the European Parliament and the Council of 16 December 2002 (Official Journal L358 of 31 December 12 2002).

29. Communication from the Commission to the Council and the European Parliament. Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations. COM (2004) 401 final, Brussels, 2 June 2004.

30. Official Journal C53 of 3 March 2005.

31. Communication on the Hague Programme: Ten priorities for the next five years – The Partnership for European Renewal in the Field of Freedom, Security and Justice. COM (2005) 184 final, Brussels, 10 May 2005.

32. COM (2006) 437 final, Brussels, 7 August 2006.

33. Official Journal L234 of 29 August 2006.

indicators and data in the area of crime. Article 4 refers to the membership. The expert group should be composed of a maximum of 50 experts chosen from national public authorities in the field of justice and home affairs, and from European bodies, international organisations or non-governmental organisations with relevant experience and expertise in analysing or developing crime and criminal justice data for policy purposes. Individuals with expertise deriving from academic research or from the private sector in this field might also become members of the group of experts.

The main tasks of the Group were to assist the Commission in establishing cooperation between Member States and other related organisations in implementing the EU Action Plan 2006-2010, to assist the Commission in identifying the policy needs for data on crime and criminal justice at the EU level, to assist the Commission in identifying the needs for the development of common indicators and tools designed to measure crime and criminal justice, to advise the Commission on relevant research and development needs or results to be taken into account in the work to implement the above-mentioned plan, and to advise the Commission on collaboration with representatives from the private and academic sectors or other relevant sectors in order to include relevant knowledge and experience in the work to implement the above-mentioned EU plan.

2.2. CURRENT INITIATIVES

The European Council framed the new strategic objectives until 2014 in the Stockholm Programme.

The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens[34]

The Stockholm Programme recognises that 'adequate, reliable and comparable statistics (both over time and between Member States and regions) are a necessary prerequisite, *inter alia*, for evidence-based decisions on the need for action, on the implementation of decisions and on the effectiveness of action'. Therefore, the European Council invites the Commission to 'continue developing statistical tools to measure crime and criminal activities and reflect on how to further develop, after 2010, the actions outlined and partly implemented in the Union Action plan for 2006-2010 on developing a comprehensive and coherent Union strategy to measure crime and criminal justice, in view of the increased need for such statistics in a number of areas within the area of freedom, security and justice'. In order to develop this task, the Commission adopted a new Action Plan:

Communication from the Commission to the European Parliament and the Council. Measuring Crime in the EU: Statistics Action Plan 2011-2015[35]

The Action Plan 2006-2010 was the first step in a long-term process. It set the basis for an EU strategy to measure crime and criminal justice by developing a mechanism for the smooth flow of information from and to the Member States. The aim of the new Action Plan 2011-2015 is to continue and take forward the work begun in 2006 and to focus on the delivery of results. The objectives presented in this Action Plan are based on the priorities set by the Internal Security Strategy with regard to specific crime areas and on the recommendations from the Expert Group on Policy Needs. These objectives are divided into the following four areas:

1. Cooperation at the EU and international levels. The objectives under this category respond to the recommendations of experts for better mapping the needs of poli-

34. Official Journal C115 of 4 May 5 2010.

35. COM (2011) 713 final, Brussels, 18 January 2012.

cymakers, better communication with the stakeholders, promotion of the work on crime and criminal justice statistics among EU institutions, and better collaboration at the EU and international levels in order to avoid duplication of the collection exercises.

2. (Data quality. The objectives of this category aim to improve the comparability of the data that are being produced on a regular basis. Since the main reasons for not having comparable data are the differences in the criminal codes and the reporting systems, the emphasis is on the development of an international crime classification system for statistical purposes, taking account of multilingual needs.
3. Data analysis and dissemination of results. Because of the differences in recording, reporting and classifying crime across the Member States, comparisons of crime levels can be misleading, especially if absolute figures are not accompanied by additional information on their quality (metadata). Therefore, one of the actions of the Plan refers to the systematic compilation and publication of metadata and contextual information, following the example of Statistics in Focus.
4. Development of indicators and specific data collections. Within this category, the following types of activities are be carried out: to implement the EU Safety Survey, the Business Victimisation Survey and the third Money Laundering data collection, to progress in data collection on Cybercrime, and to develop indicators on corruption.

The Action Plan also includes the re-establishment and enlargement of the expert group.

Commission Decision of 14 February 2012 setting up the Commission expert group on policy needs for data on crime and repealing Decision 2006/581/EC[36]

This Decision repeals the previous one from 2006 and sets up the new expert group on policy need for data on crime, which will have similar tasks, as referred to above.

After having revised these instruments adopted by the European Union, we can conclude that they provide a sufficient framework to facilitate progress in gathering crime data at the European level.

3. DRAFTING: THE DECISION-MAKING PROCESS IN CRIMINAL LAW AT THE EUROPEAN LEVEL

This section briefly describes the decision-making process in criminal matters at the European level focusing on the pre-legislative phase, when available data on crime trends should be used by policymakers in order to develop evidence-based policies.

The Lisbon Treaty abolished the structure of the three *pillars* on which the TEU was based. From its entry into force, the only legal instrument at the European level is the *directive* (Article 83 TFEU), which must be approved by the tripartite institutions: the European Commission, the European Parliament and the Council (Article 294 TFEU). The aim of the reform carried out by the Lisbon Treaty was to ensure the legitimacy of the rules adopted at the EU level, and at this point, the Treaty opted for the *ordinary legislative procedure*, which replaces the old *co-decision procedure*. In the new decision-making procedure, the role of the European Parliament increases and, correspondingly, the role that governments used to play within the old *third pillar* is reduced. This new situation leads to representative and participatory democracy in the context of federal sovereignty (Gómez-Jara Diéz 2005).[37] Next we will examine the main actors in this new procedure.

36. Official Journal C42 of 25 February 2012.

37. With respect to representative democracy, see the Lisbon Treaty, which introduces a new Title II called "Provisions on democratic principles".

3.1. ACTORS

Two types of actors can be distinguished: institutional actors and social actors. The interaction of all of them within the pre-legislative phase leads to a necessary deliberative politic in Europe that strengthens the democratic basis (Habermas 1994).

Regarding the institutional actors, the European Commission is in charge of the legislative initiative, and the European Parliament and the Council are co-legislators. At the previous stage in the ordinary legislative procedure, the European Commission, through consultations with experts and representatives of civil society, draws the necessary information to develop better law. Especially when developing criminal policy, the European Commission should receive information on crime trends during this early stage in the decision-making process.

In addition to the European Commission, also Member States can exercise the right of legislative initiative pursuant to article 76 TFEU ('on the initiative of a quarter of them'), provided that they respect the principles of proportionality and subsidiarity, and provided that they offer detailed preparation, including impact assessment reports, as called for by the Stockholm Programme.

Regarding the social actors, they interact with the European Commission through so-called Green and White Papers. A Green Paper is a document meant to invite interested individuals or organisations to a process of consultation and debate on a particular topic.[38] It may be followed by a White Paper, which represents an official set of proposals that is used as a vehicle for their development into law.[39]

At this point, the work of some social actors deserves to be highlighted. One example is the academic group *Criminal Policy European Initiative*.[40] Its main contribution to the decision-making process in criminal matters at the EU level was the *Manifesto on European Criminal Policy*, which adopts and defends the ordinary legislative procedure defined in the Lisbon Treaty. Furthermore, the work of organisations such as RAND-Europe should also be noted. RAND-Europe is a non-profit organization that helps to improve policy- and decision-making through research and analysis. It was commissioned to carry out 'The Development of a European Crime Report', a test of how a reliable report on crime trends in Europe should be.

Other public consultations are contained on the EU website, where there is a platform for the initiatives of European citizens through the so-called 'Your Voice in Europe'.[41]

3.2. THE PRE-LEGISLATIVE PHASE

The main Anglo-Saxon contribution to the decision-making process in criminal matters at the European level was the introduction of the use of impact assessments as a part of the rational-choice theory based on cost-benefit analysis (Renda 2006). Diverse European instruments refer to the need to use impact assessment studies for developing better laws. For example, Article 70 TFEU states that objective and impartial evaluation is an important tool for legislative rationality (Nieto Martín 2010). Furthermore, the White Paper on European Governance requires that the EU legislative acts are preceded by impact assessments. The impact assessment of policies is a process aimed at preparing evidence for political decision-makers on the advantages and disadvantages of possible options by assessing *ex ante* their social, economic and environmental impact. The process is divided into two phases: 1) the planning of impact assessments, the roadmap[42]; and 2) preparing the assessment itself, full impact assessment (Muñoz de Morales Romero 2011). This second phase encompasses six steps:[43] 1. Identifying the problem; 2. Defining objectives; 3. Developing the main policy options;

38. Green Papers published since 1993 are available at http://europa.eu/documentation/official-docs/green-papers/index_en.htm (last accessed on 21 July 2012).

39. European Governance. A White Paper. COM (2001) 428 final, Brussels, 25 July 2001.

40. This is an academic group created by fourteen professors of criminal law from fourteen different EU Member States. See http://www.crimpol.eu/ (last accessed on 21 July 2012).

41. See http://ec.europa.eu/yourvoice/index_en.htm (last accessed on 21 July 2012).

42. The roadmaps are available at http://ec.europa.eu/governance/impact/planned_ia/roadmaps_2012_en.htm#JUST (last accessed on 21 July 2012).

43. European Commission: Impact Assessment Guidelines, SEC (2005) 791, 15 June 2005.

4. Analysing their impacts; 5. Comparing the options; and 6. Outlining policy monitoring and evaluation. Impact assessments in criminal matters should in particular reflect a cost-benefit analysis, which is obtained by balancing the deprivation of rights that involves the imposition of a penalty (cost), against the aim pursued by the imposition of a penalty (benefit), that is the prevention of crime (ibid).

The directives provided by the Impact Assessment Guidelines 2009[44] refer to the need for data collection and consultation with stakeholders, stressing that quality data are a key part of any impact assessment. Quality data are needed both to define the problem and to identify the impacts of alternative options for dealing with the problem. Therefore, quality data should be used in the impact assessment process relating to a certain policy. Nevertheless, it seems that the use of impact assessments in the field of criminal law is quite rare. Five impact assessment studies have been carried out in criminal matters to date in relation to intellectual property, the protection of the environment, employers of illegally staying third-country nationals, terrorism, and trafficking in human beings.[45] Only three of these refer to data on crime trends, and, although they contain some references to such data, the need for improvement is underlined.

In particular the impact assessment related to the protection of the environment through criminal law recognises the existence of a significant dark figure in this field, that is the difference between actual crime levels and crime levels known to the authorities can fluctuate between 20% and 40%, and in some cases up to 90%. In addition, this impact assessment points out that the lack of homogeneity among the legal systems of the Member States makes it difficult to measure these offences, since in some Member States such offences are not recorded as environment crime but as company crime.

The impact assessment related to sanctions against employers of illegally staying third-country nationals outlines the different indirect and direct methods used by researchers and NGOs in counting the number of illegal residents or workers, which hampers determining the actual figures on such offences. However, this impact assessment also refers to the Regulation of Community statistics on migration and international protection,[46] which envisages the elaboration of common rules for the collection of data on migration by EU Member States.

Finally, the impact assessment on trafficking in human beings uses data obtained from the International Labour Organisation (ILO) and the International Organisation for Migration (IOM). However, data from these two agencies are not comparable, since the IOM figures refer to victims who have been assisted by the IOM, while ILO figures refer to an overall estimate of the number of victims.

All in all, as has already been shown, impact assessments on criminal matters rarely use data on crime. One explanation for this may be the current lack of reliable data on the areas of crime within the scope of work of the European Union (Eurocrimes), as will be explained in the following section.

3.3. AREAS OF CRIME

Pursuant to article 83.1 TFUE 'the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit

44. European Commission: Impact Assessment Guidelines, SEC (2009) 92, 15 January 2009.

45. Document de travail de la Commision Annexe à la Proposition de Décision Cadre du Conseil visant le renforcement du cadre pénal pour la répression des atteintes à la propriété intellectuelle [SEC (2005) 848]. Commission Staff Working Document accompanying document to the Proposal for a Directive on the protection of the environment through criminal law [SEC (2007) 160]. Commission Staff Working Paper accompanying document to Proposal for a Directive of the EP and of the Council providing for sanctions against employers of illegally staying third-country nationals [SEC (2007) 596]. Commission Staff Working Document accompanying document to the Proposal for a Council Framework Decision amending Framework Decision 2002/475/ JHA on combating terrorism [SEC (2007) 1424/2]. Commission Staff Working Document Accompanying document to the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/ JHA [SEC (2009) 358].

46. Regulation (EC) 862/2007 of the European Parliament and the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) 311/76 on the compilation of statistics on foreign workers (Official Journal L199 of 31 July 2007).

arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.'

At present, however, the analysis and understanding of the dimensions and characteristics of these areas of crime are a complex task, since the availability of data on such offences is particularly limited. In fact, if we take a look at the main existing datasets on crime trends, which were analysed in deliverable D.2.1,[47], we can readily observe that there are no data on some of the offences mentioned in article 83.1 TFEU, such as terrorism, sexual exploitation of women and children, and illicit arms trafficking. Regarding the remaining areas of crime, some data exist but they are not very plentiful, as noted in the following paragraphs.

Trafficking in human beings. Trafficking in human beings was covered by the tenth United Nation Survey on Crime Trend and Criminal Justice Systems (UN CTS) for the first time (Alvazzi del Frate 2010). This dataset only covered statistics on recorded offences and offenders arrested, prosecuted and convicted, based on the definition of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.[48] However, official statistics on recorded crime alone cannot measure the extent of trafficking in persons. Therefore, a broader approach to include survey-based data is required (ibid).

Illicit drug trafficking. The European Sourcebook of Crime and Criminal Justice Statistics contains detailed information on drug offences and drug trafficking. The definition of 'drug offences' is largely uniform, due to international conventions. Where possible, the figures include the cultivation, production, sale, supply, transportation, importation and exportation of drugs, financing of drug operations, consumption, possession of larger quantities and possession of small quantities. 'Drug trafficking' means 'drug offences which are not in connection with personal use. However, the line between personal use offences and trafficking is not necessarily clear and is defined differently by country (Aebi et al. 2010).

Also the UN CTS provides figures on drug-related offences and on drug trafficking. 'Drug-related crimes' may be understood to mean intentional acts that involve the cultivation, production, manufacture, extraction, preparation, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation, exportation and possession of internationally controlled drugs. 'Drug trafficking' may be understood to mean drug offences which are not connected with personal use.

Eurostat Crime Statistics (Statistics in focus) also contain figures on drug trafficking. Specifically, they include illegal possession, cultivation, production, supply, transportation, import and export of drugs, and financing of drug operations.

The International Crime Victims Survey (ICVS) and the European Crime and Safety Survey (EU ICS) asked about perceptions of drug-related problems. The question was: 'Over the last 12 months, how often were you personally in contact with drug-related problems in the area where you live? For example seeing people dealing in drugs, taking or using drugs in public places, or by finding syringes left by drug addicts?' However, answers to such question give little information about actual trends in drug-related problems (van Dijk, van Kesteren & Smit 2007).

Money laundering. With respect to this offence, only the European Sourcebook shows figures. According to this dataset, money laundering means 'specific financial transactions to conceal the identity, source, and/or destination of money or non-monetary property deriving from criminal activities.' Where possible, the figures include receiving and handling illegally obtained (but not stolen) non-monetary property, attempts,

47. Such datasets were the European Crime and Safety Survey, the European Social Survey, the European Sourcebook of Crime and Criminal Justice Statistics, the European Union Minorities and Discrimination Survey, the Eurostat Crime Statistics (Statistics in focus), the International Crime Victims Survey, the International Self-Report Delinquency Study, the International Violence Against Women Survey, and the United Nations Surveys on Crime Trends and Criminal Justice Systems.

48. 'Article 3(a): "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.'

but exclude receiving/handling stolen property and violations of the 'know-your-customer' rule (i.e. negligence in identifying a customer's identity or the origin of funds).

Corruption. The tenth UN CTS collected data on bribery and corruption for the first time, based on the definitions of 'active' and 'passive' bribery included in the United Nations Convention Against Corruption[49] (Alvazzi del Frate 2010).

The European Sourcebook also includes data on corruption in the public sector. For this offence, definitions vary significantly among countries. Therefore, this dataset uses a standard definition according to which corruption means 'offering or accepting financial or any other advantage in exchange for favourable treatment by public officials'. Where possible, the figures include active and passive corruption, instigation to corruption, complicity, corruption of domestic officials, corruption of foreign officials, extortion by public officials and offering officials advantages without immediate interest, and attempts. Corruption in the private sector, extortion (except by public officials) and bribery of the electorate are excluded.

The ICVS and the EU ICS show figures only on petty corruption (bribe-seeking by public officials) but they ignore victimisation by grand corruption (van Dijk, van Kesteren & Smit, 2007), a type of crime that is less visible but potentially more damaging. Low prevalence rates on the ICVS-based measure of petty corruption should not be seen as proof that more serious forms of corruption are equally rare (ibid).

Counterfeiting of means of payment. Data on this offence was contained only in the tenth UN CTS, which defined 'counterfeit currency offences' as 'any violation in connection with manufacturing, issuing, uttering, smuggling or trafficking in counterfeit currency'.

Computer crime. Figures on this offence were offered only by the European Sourcebook. With respect to this offence, the national legal systems provide very different definitions. Therefore, this dataset uses a standard definition according to which 'offences against the confidentiality, integrity and availability of computer data and systems' comprise 'unauthorised entry into electronic systems (computers) or unauthorised use or manipulation of electronic systems, data or software.' Where possible, the figures include illegal access (i.e. intentional access to a computer system without right to do so), illegal interception (i.e. interception, without right to do so, of non-public transmissions of computer data, performed by technical means), data interference (i.e. damaging, deleting, deteriorating, altering or suppressing computer data without right to do so), system interference (i.e. serious hindering, without right to do so, of the functioning of a computer system), misuse of devices (i.e. production, sale, procurement for use, import, or distribution of a device or a computer password/access code), computer fraud (i.e. deception of a computer instead of a human being) and attempts, but exclude the illegal downloading of data or programs.

Organised crime. The tenth UN CTS showed figures on participation in organised crime groups for the first time, based on the definition included in the United Nations Convention against Transnational Organized Crime.[50] Statistics were collected at the police, prosecution and courts level but only a few countries were able to respond to the questions on this type of crime. In fact, more than half of the responses to the tenth UN CTS lacked this information (Alvazzi del Frate 2010).

To sum it up, although some data on the types of crime mentioned in article 83.1 TFUE appear in the datasets mentioned above, they are not comprehensive enough and most of them come from official statistics on recorded crime. Thus, they suffer from the well-known flaws of these statistics (different legal definitions, different recording and reporting practices, the dark figure). Consequently, it becomes difficult to develop evidence-based policy on these areas.

49. 'Active bribery' is defined as 'the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties' (Article 15(a). 'Passive bribery' is defined as 'the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties' (Article 15(b).

50. 'Participation in organized criminal groups' may be understood as participating in the activities of an organized criminal group and/or organizing, directing, aiding, abetting, facilitating or counselling serious crimes involving organized criminal groups. This definition may apply to anyone who, being aware of the group's criminal objectives, becomes involved in activities that contribute to the achievement of such objectives.

4. ANALYZING THE POLICY RELEVANCE OF EXISTING CRIME DATA: FLAWS AND PROPOSALS FOR IMPROVEMENT

Developing evidence-based criminal policy requires, first of all, the existence of reliable data on crime. As it was analysed in deliverable D.2.1, at present there are many organisations at the European level and worldwide that collect data on crime. Nevertheless, existing data suffer from some limitations and, therefore, they are not usually used at policy level. In addition, the policymaking process has certain characteristics (such as timing and the pressure exerted by interest groups) that hamper the proper use of existing crime data. This section explores these two sets of reasons (related to the limitations of the data and the policymaking process) why existing crime data have limited policy relevance, and offers some proposals for improvement.

4.1. REASONS RELATED TO THE LIMITATIONS OF EXISTING DATA

Existing crime data are currently limited due to the following factors: the existence of obstacles to performing comparisons on crime trends between countries or within a country over time, the inaccuracy of data, the form in which data are presented to policymakers, and the absence of data on so-called 'emerging crimes'.

1. Difficulties in making comparisons across countries and over time

Comparisons provide real opportunities for countries to challenge themselves and learn from others. However, the main tool currently used in making comparisons between countries or within a country over time — the official crime statistics on recorded crime — suffers from some shortcomings. Specifically, the existence of statistical, legal and substantive factors influences the outcome of such official statistics. In addition, they only reflect recorded crime, and ignore the dark figure of crime. Furthermore, they do not offer contextual information on other factors that may influence the commission of a crime. These three factors are explained below.

1.1. The influence of statistical, legal and substantive factors

In his review of rape statistics in Sweden, von Hofer (2000) identified three different factors (statistical, legal and substantive) that affect official crime statistics to such an extent that making reliable comparisons across countries or within a country over time becomes complicated. Statistical factors refer to the way in which crime statistics are elaborated. Legal factors include the way the crime itself is defined in the relevant legislation, as well as various related aspects of the judicial process. Finally, substantive factors refer to the propensity to report and to record offences, and to the actual crime levels. Each of these factors can be broken down into a number of points that affect comparability (ibid).

Statistical factors include the following: **a) The point at which data are collected.** On the basis of the moment at which data are collected, countries can be divided into three groups: countries using input statistics, countries using intermediate statistics, and countries using output statistics (Aebi 2008). In countries using input statistics, data are recorded for statistical purposes when the offence is reported to the police (or when police officers observe or discover an offence). In countries using output statistics, on the contrary, data are recorded when the police have completed the investigation. Finally, some countries record data at an intermediate stage in the process. The point at which data are collected can have a significant effect on the statistics. For instance, Aebi's study shows that countries using input

statistics present higher crime rates than those using intermediate statistics, and the latter present higher crime rates that those using output statistics. **b) The manner in which offences are counted**. For instance, particular problems appear when a criminal event includes more than one offence or when more than one person was involved in the event (von Hofer 2000). **c) The moment to which the statistics refer**. For example, statistics may refer to the year when the offence was committed or to the year when the offence was reported (von Hofer 2000). **d) Changes in statistical routines.** If a country modifies its statistical routines, it will be difficult to know whether subsequent changes in the statistics reflect a modification in the actual crime levels or if these changes are simply a consequence of the modification of the statistical routines (Hofer 2000; Zauberman 2008).

Legal factors include the following: **a) The significance of legal definitions**. A crucial problem when making comparisons between countries is the existence of different definitions of the types of crimes. Although definitions of some types of crime are relatively clear (for instance, homicide), for other types of crime it is difficult to understand what type of activities fit into them. This applies not only to unconventional crimes such as organised crime or corruption (Malby 2012), but also to some conventional crimes, such as rape (von Hofer 2000), theft (Barclay 2000) or drunken driving. **b) The effect of the legal process.** Statistics may be affected by the role attributed to the victim in the prosecution of the crime. For instance, there are crimes which are only prosecuted if the victim is prepared to press charges, and so if the victim is not prepared to do so, the criminal event may not be registered as a crime (von Hofer, 2000). **c) The 'legality principle' as opposed to the 'expediency principle'.** Statistics may also be affected by the power given to the prosecution authority. In systems governed by the 'legality principle', the police and the prosecution authorities are required to prosecute all offences of which they become aware. This can lead to the more frequent registration of offences as compared to in systems ruled by the 'expediency principle', where prosecution is within the discretion of prosecutors and where the classification of offences is negotiable (von Hofer 2000).

Substantive factors include **a) The propensity of the population to report offences.** The propensity of the population to report offences depends on several factors. For instance, it may depend on the level of confidence that the public has in the police and the judicial authorities, on the taboos associated with some offences in some countries (i.e. rape), on having access to a telephone, or on the seriousness of the crime (see, among others, Goudriaan et al. 2004; von Hofer, 2000). Such factors can make it appear as though these countries have higher actual crime rates, although in fact the people only have a stronger propensity to report crimes. **b) The propensity of the police to register offences**. Also the propensity of the police to register offences varies from one country to another. For example, sometimes, political pressure may encourage the police to record all individual incidents in serial offence cases, even if their number needs to be extrapolated, which leads to the appearance of higher crime rates (Hunt et al. 2011). **c) The actual crime levels**. Finally, one cannot forget that there are many factors which influence the commission of a crime, and therefore the actual crime levels vary across countries and within a country over time (von Hofer 2000).

Aebi (2010) adds to the above list of different factors the category of 'criminal policy factors', which refer to the crime and crime prevention policies applied by a country, something which may affect the other three factors mentioned. For instance, the application of a zero-tolerance policy should presumably lead to an increase in the offences recorded by the police, at least during the first months of its application, because if the police are interested in every offence, the number of recorded offences should increase.

Recommendations:

Although collecting comparable data on registered crime is a complicated task, there may still be room for cautious optimism. One of the most often repeated proposals for achieving the comparability of crime data is the **adoption of standard definitions** of the types of offences to be used in the international datasets (see, among others, Aebi et al. 2002, Harrendorf 2012, Jehle 2012). One step in this direction has been taken, for example, by the authors of the European Sourcebook of Criminal and Criminal Justice Statistics (Aebi et al. 2010), who have established standard definitions of the different types of crime and have broken down the offences in special items to be included or excluded.

Standard definitions are needed not only of conventional crimes (burglary, rape, theft) but also, albeit it is a much more complicated task, **of emerging crimes** such as corruption, Cybercrime and transnational organised crime.

In addition, in order to improve the comparability of the data, also **counting rules**, which vary from country to country, should be **standardised**. One again, the European Sourcebook has tried to address this challenge by offering summarised information on the following questions: 1. Are there written rules regulating the way in which data are recorded? 2. When are data collected for statistics? 3. What is the counting unit used in the statistics? 4. Is a principal offence rule applied? 5. How are multiple offences counted? and 6. How is an offence committed by more than one person counted? (Aebi 2008).

1.2. The dark figure

Already during the first half of the nineteenth century, when the first statistics on crime were developed, the problem of the dark figure of the criminality was recognised (Aebi & Linde). Almost two centuries later, official statistics on recorded crime continue to face this problem since, by definition, they reflect only crime which has come to light, that is crime discovered by the victims (or by the police), reported to and subsequently recorded by the police. The existence of such a hidden figure, which is ignored by the official statistics on recorded crime, notoriously hinders performing comparisons since the real crime levels are unknown.

Recommendation:

In order to fill the gap derived from the existence of the dark figure on crime, it would be necessary **to use victimisations surveys** such as the International Crime Victims Survey (ICVS) or the European Crime and Safety Survey (EU ICS).

1.3. Lack of contextual information when presenting data on crime trends

Crime does not happen in isolation from other factors. In fact, there is a huge number of circumstances that influence crime. For instance, Hunt et al. (2011) highlight three groups of contextual factors which need be taken into consideration when interpreting the existing data on crime trends: a) opportunities for committing a crime and for becoming victim of a crime (population density, science, technology); b) facilitating factors (social capital, social networking, social exclusion indicators); and c) private sector involvement. However, the existing datasets on crime analysed in deliverable D.2.1 do not provide contextual information which may help the users to understand crime trends and which may consequently lead policymakers to improved crime policies.

Recommendation:

More reliable comparisons could be made if **contextual information** was gathered. Even if definitions of the types of crime and counting rules could be standardised, there are other circumstances that may influence the crime rates. On this point, Hunt et al. (2011) suggest collecting information at the macro, meso and micro levels. Examples of

macro-level factors are the economic context and demographic characteristics, such as age and gender; meso-level factors include changes in criminal justice systems and other infrastructural changes and practices, such as changes in alcohol pricing and availability; and micro-level factors include peer affiliations and close relationships, attachment to moral codes, parenting and social support.

2. Lack of accuracy or mistrust

The lack of accuracy or mistrust in the data, which may be related to the capability (experience or expertise) of those responsible for validating the data, may be a reason that helps to explain the limited policy relevance of existing crime data (Hunt et al. 2011).

Recommendations:

In order to address such a challenge, it would be desirable that the **working group validating data** includes **experienced persons,** as is the case with the European Sourcebook project (Hunt et al. 2011).

Any research faces limitations which policymakers and the public at large are aware of. Therefore, another way to increase trust in the data might be that the authors of a crime dataset **supply information about the limitations** of the data and analysis (ibid.). For example, the authors of the European Sourcebook admit that 'the lack of uniform definitions of offences, of common measuring instruments and of common methodology makes comparisons between countries extremely hazardous' (Aebi et al. 2010: 22). It does not make the research invalid since the European Sourcebook also provides indications of how, in the opinion of experts, the data can be interpreted. In fact, the European Sourcebook contains numerous footnotes and technical information explaining the figures in each table in order to avoid misinterpretation of data. However, although we consider it necessary to warn about the potential limitations of one data source, the communication of such limitation has to be cautious because if they are not communicated properly, the users may think that the data are of poor quality and not worth using (Hunt et al. 2011).

3. The form in which crime data are presented to policymakers

Crime data are generally not produced in a form that senior policymakers can understand and use. A good example of this is the European Sourcebook of Crime and Criminal Justice Statistics. It is a treasure trove for criminologists and others who use crime data on a regular basis. Nevertheless, policymakers are not usually interested in such in-depth analysis but in readily available statistics, such as the way the rate of a particular crime has changed over a certain period of time. Therefore, the abundance of footnotes and explanatory remarks within the European Sourcebook makes it very difficult for policymakers to read it.

Recommendation:

Since policymakers do not need the same level of detailed information that academics may need for their purposes, crime data should be presented to policymakers in an **understandable form**; for instance, readily comprehensible pieces of information with visual representations (such as graphs) showing changes in crime rates over a certain period of time would be useful for them (Hunt et al 2011). However, simplifying crime data should be done carefully in order to avoid an oversimplification that can be misleading for the reader.

4. Lack of data on 'emerging crimes'

One of the main shortcomings of the existing crime datasets is the lack of comprehensive data on so-called 'emerging crimes', 'complex crimes' or 'new crimes'. Typically, data sources on crime show figures on conventional crimes such as homicide, rape, burglary or theft, but they usually do not show figures on non-conventional offences such as corruption, terrorism or trafficking in human beings. This fact seems to be due to the difficulty in formulating clear and widely accepted definitions of such crimes, which are usually composed of more than one single action, and which are usually committed by groups of persons meeting the definition of an organised criminal group contained in Article 2(a) of the United Nations Convention against Transnational Organized Crime (Malby 2012). The lack of comprehensive data on such offences may also be due to the fact that they are considered victimless crimes (except terrorism and trafficking in human beings), meaning that they do not harm an individual person but harm collective interests. Thus, people do not feel individually damaged by them and hence such crimes do not appear either in official statistics on recorded crime or in the findings of victimisation surveys carried out among households (Malby 2012, van Dijk 2007b). For this reason, official statistics on such crimes may be misleading for the reader; for example, in countries where organised crime is most prevalent, investigations into such crimes might be hampered by police corruption and political interference in prosecuting and sentencing. Therefore, low rates of court cases involving such crimes may paradoxically point to high rather than low prevalence of this type of crime (van Dijk 2007a).

It is especially necessary to point out here the absence of comprehensible data on the so-called Eurocrimes (see section 3.3): terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime (Article 83.1 TFEU). If policymakers at the European level do not have data on these types of crime, it will be impossible to develop evidence-based policies related to them.

Recommendation:

Given the absence of comprehensive data on emerging crimes (including Eurocrimes), there is at present an urgent need **to gather reliable data** on such crimes. This is not an easy task due to the lack of clear and widely accepted definitions concerning most of these offences and due to the fact that most of them are victimless crimes. Nevertheless, in recent years, efforts to develop indicators regarding these new crimes have been made (Malby 2012, van Dijk 2007a, van Dijk 2007b, van Dijk, 2008) and this trend has to continue in order to provide policymakers with reliable data for developing evidence-based policies in this field.

5. Lack of a place on the Internet where the most representative datasets on crime are put together

As was reviewed in deliverable D.2.1, there are currently many datasets on crime trends at the European level and worldwide. Nevertheless, there are few places for interested parties to go where the information is brought together. Likewise, there is no place where stakeholders can access other useful information that helps in understanding the crimes, such as information on the national legal systems and counting rules, and on contextual factors from each country that influence the crime rates.

Recommendation:

Since there are currently a large number of datasets on crime, it would be useful to create the possibility to access them on one website, since the Internet is the current key medium for the presentation and exchange of information. Thus, it would be desirable to design a place on the Internet through which users could have access not only to crime

data, but also to other crucial information such as information on the national legal systems and counting rules, and on contextual factors from each country that influence the commission of a crime (Hunt et al. 2011). That would be a **crime data portal** to which the crime research community could contribute, and where they could critique and comment on the data and any analysis made on its basis. Properly moderated, it can in time become reasonably authoritative, the 'go-to' place where national and international policymakers could obtain data.

4.2. REASONS RELATED TO THE POLICYMAKING PROCESS

1. The disconnection between policymakers and researchers

A key role of research is to inform policymaking. However, getting research to influence practice is not an easy task due to the traditional existing disconnection between policymakers and researchers. Policymakers are not usually involved in research projects. Thus, researchers often have to imagine what policymakers need to know in designing policies, and they have to carry out their research without knowing whether this research will be useful for the policymakers (NAO 2003). A good example of such a disconnection is our vain attempt to carry out a brief survey on the shortcomings of the existing crime datasets among the members of the Committee on Civil Liberties, Justice and Home Affairs (LIBE), which is in charge of most of the legislation linked to the area of freedom, security and justice in the EU. Although the survey was e-mailed to the 24 members three times, we received only one response. This hampered the achievement of the objectives of our research, since the research had to be based only on the existing literature.

Recommendations:

It is necessary to encourage **cooperation between policymakers and researchers** in order to improve the transfer of knowledge. Policymakers should be involved in research projects from the outset in order to tell the researchers what they need to know and when they need to know it. This early involvement is essential since the simply passive dissemination of research findings is not sufficient to ensure that research findings will be used to improve policy. (NAO 2003, Tydén & Nordfors 2000).

Especially at the European level it is essential that EU policies benefit from the knowledge coming out of research projects funded by the EC, once again underlining the need for involving European policymakers in such projects from the very beginning.

2. Policymaking timing versus research timing

The pace of policymaking is clearly faster than that of scientific research. Policymakers usually have very little time to study an issue. In comparison, the results of scientific research may not be available until after years of research. This is the case with some of the existing datasets on crime trends. For instance, the European Sourcebook of Crime and Criminal Justice Statistics and the results of the International Crime Victims Survey are published every three or four years — which amounts to an eternity in policy formulation.

In addition, the rapid pace of policymaking prevents them from having the necessary time to understand the limitations of research and the limits on how data can be used.

Recommendations:

High frequency statistics would be necessary to allow policymakers the possibility of rapid intervention on certain issues (De Wever 2011). Obviously, this requires the allocation of sufficient funds.

On the other hand, as was mentioned above, policymakers do not need enormous amounts of data. They do need **analyses of the information** that can help them to design better criminal policy. Therefore, researchers should be encouraged to analyse the data using scientific methods and provide politicians with specific policy suggestions.

3. Pressure from interest groups

Policymakers are usually under pressure from a number of different interest groups. Many of these interest groups will be brandishing their own data to support their position. There is no reason for the policymakers to assume that researchers are impartial, and that the data they show have not been skewed by the researchers to serve the researchers' own worldview. Even policymakers have often heard that statistics can be misleading ('lies, damned lies, and statistics') and, therefore, they may be sceptical of statistics and simply ignore them.

Furthermore, policymakers may also be under pressure from the public at large which appears to demand quick and punitivist responses against a particularly serious offence, even though the data do not show an increase in the rate of such crime.

Recommendations:

It is clear that policymakers should not develop criminal policy based on poor quality data. They should **employ data coming from organisations which have experts in validating the data** in their working groups.

Criminal policy in a democratic society should not be based on the sentiments that certain offences might evoke in the public but on evidence resulting from reliable research.

To sum it up, the recommendations that we have introduced here work in the direction of increasing the understanding of existing crime data by policymakers with a view to more evidence-based policy decisions.

5. CONCLUSION

In recent years, we have heard repeated calls nationally and internationally for evidence-based policy. The starting point of evidence-based criminal policy is certainly the existence of reliable data on crime. However, available data, especially those coming from police statistics on recorded crime, suffer from certain flaws such as various statistical, legal and substantive factors that misrepresent the amount, structure and trend of crime (see section 4.1). This reduces its utility for policymakers or researchers in the field of criminal policy. In order to address such flaws, measures such as the adoption of standard definitions of specific types of crimes and standard counting rules, the collection of contextual data to which crime is related, or the use of victimisation surveys have been demanded by researchers for a long time. The EU has also been calling for the adoption of measures for improving the collection of data on crime. For instance, the Statistics Action Plan 2011-2015 focuses on four crucial areas: cooperation at the EU and the international levels, data quality, data analysis and dissemination of results, and development of indicators and specific data collections. This instrument provides a framework that should facilitate progress in collecting reliable crime data.

The existing datasets on crime trends have also another important weakness: they only offer figures on conventional crimes, ignoring the 'new' crimes. In our analysis of the most relevant existing datasets, we have observed in particular the lack of data on Eurocrimes: terrorism, trafficking in human beings and sexual exploitation of

women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. This fact obviously hampers the development of evidence-based policies in the areas of crime within the scope of the work of the European Union. For this reason, we consider gathering of data on such offences to be essential. The starting point here should be the adoption of clear definitions followed by the development of indicators to measure trends in such offences, since the traditional tools (official statistics on recorded crime and victimisation surveys among households) seem to be insufficient.

Whenever reliable data on such crimes will be available, it will be necessary to fill the gap between policymaking and research in order to undertake evidence-based crime policies which take into account such data. In section 4.2 of this paper we have analysed the main reasons that explain the existence of such a gap: 1) The traditional disconnection between policymakers and researchers. For example, policymakers are not usually involved in research projects. For this reason, researchers often have to imagine what policymakers need to know in designing their policies. 2) The pace of policymaking is clearly faster than that of scientific research, and so policymakers usually have very little time to study available data and much less time to understand the limits to how data can be used. 3) The existence of interest groups that offer policymakers their own data to support their positions. In this context, policymakers assume that such data are not impartial and they may readily ignore even research-based data.

We have presented some proposals designed to fill the existing gap between policymaking and research. On the one hand, policymakers should be involved in research projects on crime since the outset in order to inform researchers about what kind of evidence they need to know. In particular, in the framework of the European Union, policymakers should participate in projects funded by the European Commission. On the other hand, researchers should analyse the data with scientific methods, and summarise and communicate them to policymakers in a way that makes the evidence comprehensible by and accessible to policymakers. Raw data need not be communicated to policymakers since policymakers may not understand them and do not need such in-depth information.

Policymakers should base their criminal policy on analysis that reflects the reality in society, and not on sentiments apparently expressed by the public at large or on the pressure exerted by certain interest groups. The EU is moving in this direction. Over the last decade a mechanism has been developed with the aim of incorporating the use of data in the decision-making process: the impact assessment of policies, which is a process aimed at preparing evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impact. However, only five impact assessment studies in criminal matters have been undertaken to date — a very small number. Only three of them (in the fields of protection of the environment through criminal law, employers of illegally staying third-country nationals and trafficking in human beings) mention data on crime trends, and although these three make some references to such data, the need for improvement is highlighted. Therefore, it would be desirable that impact assessments accompany every EU directive on criminal issues. This would be a better tool for developing evidence-based policy which takes into account the actual crime levels.

LEGAL AND POLITICAL DOCUMENTS
(in alphabetical order)

Commission Decision of 14 February 2012 setting up the Commission expert group on policy needs for data on crime and repealing Decision 2006/581/EC (2012/C 42/92) (Official Journal C42 of 15 February 2012).

Commission Decision of 7 August 2006 setting up a group of experts on the policy need for data on crime and criminal justice (2006/581/EC) (Official Journal L234 of 29 August 2006).

Commission Staff Working Document accompanying document to the Proposal for a Council Framework Decision amending Framework Decision 2002/475/JHA on combating terrorism. SEC (2007) 1424/2.

Commission Staff Working Document accompanying document to the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/ JHA. SEC (2009) 358.

Commission Staff Working Document accompanying document to the Proposal for a Directive on the protection of the environment through criminal law. SEC (2007) 160.

Commission Staff Working Paper accompanying document to the Proposal for a Directive of the EP and of the Council providing for sanctions against employers of illegally staying third-country nationals. SEC (2007) 596.

Communication from the Commission to the Council and the European Parliament. Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations. COM (2004) 401 final, Brussels, 2 June 2004.

Communication from the Commission to the European Parliament and the Council. Measuring in the EU: Statistics Action Plan 2011-2015. COM (2011) 713 final, Brussels, 18 January 2012.

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010. COM (2006) 437 final, Brussels, 7 August 2006.

Communication on the Hague Programme: Ten priorities for the next five years – The Partnership for European renewal in the field of Freedom, Security and Justice. COM (2005) 184 final, Brussels, 10 May 2005.

Decision 1578/2007/EC of the European Parliament and of the Council of 11 December 2007 on the Community Statistical Programme 2008-2012 (Official Journal L344 of 28 December 2007).

Document de travail de la Commision Annexe à la Proposition de Décision Cadre du Conseil visant le renforcement du cadre pénal pour la répression des atteintes à la propriété intellectuelle [SEC (2005) 848].

European Commission: Impact Assessment Guidelines, 15 June 2005. SEC (2005) 791.

European Commission: Impact Assessment Guidelines, 15 January 2009. SEC (2009) 92.

European Governance. A White Paper. COM (2001) 428 final, Brussels, 27 July 2001.

The Hague Programme: Strengthening Freedom, Security and Justices in the European Union (Official Journal C53 of 3 March 2005).

The Prevention and Control of Organised Crime: A European Union Strategy for the Beginning of the New Millennium (Official Journal C1124 of 3 May 2000).

The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens (Official Journal C115 of 4 May 2010).

Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (Official Journal L87 of 31 March 2009).

Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No. 311/76 on the compilation of statistics on foreign workers (Official Journal L199, 31 July 2007).

Work Package 2
State of the art:
Crime trends

2.3

Policy relevance of existing crime data

by: Ana Pérez Cepeda and Demelsa Benito Sánchez

INTRODUCTION

Setting the scene

In recent years, several EU documents, e.g. the Stockholm Programme, have been calling for evidence-based criminal policy. At present, there are many datasets on crime and criminal justice at the EU level and worldwide that could provide evidence for developing criminal policy. FIDUCIA research has analysed the most representative datasets and has observed that most of them suffer from certain flaws, especially, those based on official statistics on recorded crime. In addition, it was found that datasets based on victimisation surveys provide more reliable data to be used by policymakers and scholars.

Overall, FIDUCIA research has shown that current use of the existing crime data within policymaking in criminal matters at the EU level is very limited. FIDUCIA has also investigated the reasons why existing crime data have such limited policy relevance and has suggested some recommendations for further improvement.

KEY OBSERVATIONS

Developing evidence-based policy requires the existence of reliable data on crime

Developing evidence-based criminal policy requires, first of all, the existence of reliable data on crime. Therefore, **the first question of the FIDUCIA research was whether the existing datasets on crime offer reliable information**.

The findings show that many of the **available datasets have limitations, especially those using official statistics on recorded crime**, as is explained below.

Flaws of the existing datasets on crime

a) Difficulties in making comparisons

Comparisons provide real opportunities for countries to challenge themselves and learn from others. However, the main tool currently used in making comparisons between countries or within a country over time — the official statistics on recorded crime — suffers from some shortcomings. Specifically, certain statistical, legal and substantive factors influence the outcome of such official statistics.

Statistical factors include the following: **a) The point at which the data are collected.** On the basis of the moment at which data are collected, countries can be divided into three groups: countries using input statistics, countries using intermediate statistics, and countries using output statistics. In countries using input statistics, data are recorded for statistical purposes when the offence is reported to the police (or when police officers observe or discover an offence). In countries using output statistics, on the contrary, data are recorded when the police have completed the investigation. Finally, some countries record data at an intermediate stage in the process. The point at which data are collected can have a significant effect on the statistics. For instance, countries using input statistics present higher crime rates than those using intermediate statistics, and the latter present higher crime rates that those using output statistics. **b) The manner in which offences are counted**. For instance, particular problems appear when a criminal event includes more than one offence or when more than one person was involved in the event. **c) The moment to which the statistics refer**. For example, statistics may refer to the year when the offence was committed or to the year when the offence was reported. **d) Changes in statistical routines.** If a country modifies its statistical routines, it will be difficult to know whether subsequent changes in the statistics reflect a modification in the actual crime levels or if these changes are simply a consequence of the modification of the statistical routines.

Legal factors include the following: **a) The differences in the legal definitions**. Although definitions of some types of crime are relatively clear (e.g. homicide), for other types of crime (e.g. computer crime, corruption) it is difficult to define what type of activities fit into them. **b) The effect of the legal process.** Statistics may be affected by the role attributed to the victim in the prosecution of the crime. For instance, there are crimes which are prosecuted only if the victim is prepared to press charges, and so if the victim is not prepared to do so, the criminal event may not be registered as a crime. **c) The 'legality principle' as opposed to the 'expediency principle'.** In systems governed by the 'legality principle', the police and the prosecution authorities are required to prosecute all offences of which they become aware. This can lead to the more frequent registration of offences as compared to systems ruled by the 'expediency principle', where prosecution is within the discretion of prosecutors and where the classification of offences is negotiable.

Substantive factors include the following: **a) The propensity of the population to report offences.** This may depend on several factors, such as the level of confidence that the public has in the police and judicial authorities, on the taboos associated with some offences in some countries (e.g. rape), on having access to a telephone or on the seriousness of the crime. Such factors can make it appear as though these countries have higher actual crime rates, although in fact the people only have a stronger propensity to report crimes. **b) The propensity of the police to register offences**. For example, sometimes, political pressure may encourage the police to record all individual incidents in serial offence cases, even if their number needs to be extrapolated, which leads to the appearance of higher crime rates.

In addition to these flaws, by definition official statistics only reflect recorded crime, and ignore the dark figure of crime. This fact notoriously hinders performing comparisons since the real crime levels are unknown.

Furthermore, official statistics do not offer contextual information on other factors that may influence the commission of a crime.

However, **efforts have been made in recent years to overcome the aforementioned problems**. One example is the European Sourcebook of Crime and Criminal Justice Statistics (ESB). Among its advantages are, for instance, the methodology for data collection and presentation (aimed at ensuring maximum information accuracy by introducing standard definitions of offences and providing detailed country-by-country explanations of what is actually reported), the opportunities (although subject to significant limitations) for comparative analysis, and the broad scope in terms of geographical coverage and types of offences (in particular with the inclusion of the new categories of offences in the most recent edition).

But official statistics on recorded crime are not the only existing tool to measure crime. For decades, data on crime are also collected through **victimisation surveys** such as the International Crime Victim Survey (ICVS) or the European Union International Crime and Safety Survey (EU ICS). Such instruments **offer more reliable data** than datasets based on official statistics. Therefore, they are widely accepted among scholars as one of the most important tools to measure and compare crime across countries.

In addition, other EU efforts to harmonise crime data deserve to be mentioned, such as the forthcoming European Crime Report, which is undertaken by RAND, and the work of TRANSCRIME (Joint Research Centre on Transnational Crime) with respect to the development of an EU survey on crime against business.

b) The inaccuracy of data

The inaccuracy of data is usually related to the capability (experience and expertise) of

those responsible for validating the data.

c) The form in which crime data is presented to policymakers

Crime data are generally not produced in a form that policymakers can understand and use. An example of this is the ESB. The abundance of footnotes and explanatory remarks makes it very difficult for policymakers to read it.

d) Lack of data on 'emerging crimes'

Typically, data sources on crime show figures on conventional crimes such as homicide, rape, burglary or theft, but they usually do not show figures on non-conventional offences such as corruption, terrorism or trafficking in human beings.

This fact seems to be due to the difficulty in formulating clear and widely accepted definitions of such crimes, which are usually composed of more than one single action, and which are usually committed by groups of persons. In addition, such crimes are usually considered victimless crimes (except terrorism and trafficking in human beings), meaning that they do not harm an individual person but harm collective interests. Thus, people do not feel individually damaged by them and hence such crimes do not appear either in official statistics on recorded crime or in the findings of victimisation surveys carried out among households.

It is especially necessary to point out here the **absence of comprehensive data on Eurocrimes**. Our research has shown that the main existing datasets on crime do not contain any data on some of the offences mentioned in Article 83.1 TFEU, such as sexual exploitation of women and children, and illicit arms trafficking. Regarding the remaining offences (trafficking in human beings, illicit drug trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime), some data exist within the ICVS, the EU ICS, the ESB, the United Nation Survey on Crime Trend and Criminal Justice Systems (UN CTS) and the Eurostat Crime Statistics (Statistics in focus), but they are not very comprehensive.

e) The lack of a place on the Internet where the most representative datasets are put together

Although there are currently many datasets on crime trends at the European level and worldwide, there are however few places for interested parties to go where the information is brought together. Likewise, there is no place where stakeholders can access other useful information that helps in understanding the crimes, such as information on the national legal systems and counting rules, and on contextual factors from each country that influence the crime rates.

Use of existing data for developing criminal policy

FIDUCIA research has shown that European **policymakers make little use of existing data on crime when developing criminal policy**. Some of the reasons for this fact may be the following:

a) The disconnection between policymakers and researchers

A key role of research is to inform policymaking. However, getting research to influence practice is not an easy task due to the traditional disconnection between policymakers and researchers. Policymakers are not usually involved in research projects. Thus, researchers often have to imagine what policymakers need to know in designing policies, and they have to carry out their research without knowing whether this research will be useful for the policymakers.

b) Policymaking timing versus research timing

The pace of policymaking is clearly faster than that of scientific research. Policymakers usually have very little time to study an issue. In comparison, the results of scientific research may not be available until after years of research. This is the case with some of the existing datasets on crime trends. For instance, the European Sourcebook of Crime and Criminal Justice Statistics and the results of the ICVS are published every three or four years — which amounts to an eternity in policy formulation.

In addition, the rapid pace of policymaking prevents them from having the necessary time to understand the limitations of research and the limits on how data can be used.

c) The pressure from interest groups

Policymakers are usually under pressure from a number of different interest groups. Many of these interest groups will be brandishing their own data to support their position. There is no reason for the policymakers to assume that researchers are impartial, and that the data they show have not been skewed by the researchers to serve the researchers' own worldview. Given that statistics can be misleading, the scepticism that surrounds the matter is to some extent understandable.

Furthermore, policymakers may also be under pressure from the public at large which appears to demand quick and punitivist responses against a particularly serious offence, even though the data do not show an increase in the rate of such crime.

RECOMMENDATIONS

Improving the quality of existing crime data

In order to improve the comparability of data, it is necessary:

- to adopt standard definitions of the types of offences to be used in the international datasets, especially, on emerging crimes;
- to adopt common standards on counting rules;
- to use victimisation surveys based on a commonly agreed methodology in combination with official data on recorded crime;
- to collect information on contextual factors that influence the crime rates.

In order to address the lack of accuracy or mistrust in the data, it is required:

- that the authors of a crime dataset supply information about the limitations of the data and analysis, and give indications of how the data can be interpreted.

In order to improve the way in which crime data are presented to policymakers, it is desirable:

- to present the data in an understandable form by using a uniform format; for instance, readily comprehensible pieces of information with visual representations showing changes in crime rates over a certain period of time.

In order to overcome the lack of data on emerging crimes, it is necessary:

- to collect data on such crimes, especially on Eurocrimes.
- Furthermore, it would be useful to create the possibility to access existing crime datasets on a website through which users could have access not only to crime data, but also to other crucial information such as information on the national legal systems and counting rules, and on contextual factors from each country that influence the commission of a crime.

Encouraging the use of existing data for developing criminal policy

In order to encourage the use of existing data in policymaking in criminal matters, the following measures are needed:

- It is advisable to promote **cooperation between policymakers and researchers** in order to improve the transfer of knowledge. Policymakers should be involved in research

projects from the outset in order to discuss with the researchers what they would like to know and when.

- **High frequency statistics** would be necessary to allow policymakers the possibility of rapid intervention on certain issues.
- Policymakers do not need enormous amounts of data, but they need **analysis of the information**. Therefore, researchers should be encouraged to analyse the data using scientific methods and provide politicians with specific policy suggestions.

Key message for policymakers

Several EU documents at present demand evidence-based criminal policy. The starting point of that is certainly the existence of reliable data. Despite the existence of a large list of datasets on crime, FIDUCIA research has shown that they have some limitations. However, there may still be room for optimism. The recommendations suggested here will contribute to improve the reliability of the existing data. Whenever reliable data on such crimes will be available, it will be necessary to fill the gap between policymaking and research in order to undertake evidence-based crime policies which take into account such data. To achieve this, we have already presented some recommendations.

The EU is moving in this direction and this trend has to continue. Over the last decade a mechanism has been developed with the aim of incorporating the use of data in the decision-making process: the impact assessment of policies. However, FIDUCIA research indicates that only five impact assessments in criminal matters have been undertaken to date — a very small number. Only three of them (in the fields of protection of the environment through criminal law, employers of illegally staying third-country nationals and trafficking in human beings) mention data on crime trends.

To improve the current situation and encourage the use of data in the decision-making process at the European level, as demanded by several EU initiatives, our final recommendation is that **impact assessments showing reliable crime data accompany every EU directive on criminal issues**. This would be the best tool for developing evidence-based policy which takes into account the actual crime levels.

RESEARCH PARAMETERS

Objectives of the research

The objective of this research was to find out the reasons why available crime data are usually not used at the policy level and to provide a list of recommendations designed to encourage their use in the future.

Methodology

The findings presented in this policy brief are based on the review of available literature on crime trends in Europe, as well as on the analysis of the existing instruments to measure crime at the European level and worldwide (official statistics on recorded crime and survey-based data).

In addition, a survey on the shortcomings of the existing datasets on crime was directed at the members of the Committee on Civil Liberties, Justice and Home Affairs (LIBE), which is responsible for most of the legislation linked to the area of freedom, security and justice. However, only one response was received. This fact complicated the development of the FIDUCIA research, since it had to be based only on the existing literature.

Work Package 3
State of the art:
Policies

3.1

The intended and unintended consequences of deterrence & inclusive crime control strategies

by: Paolo Campana, Mike Hough, Elena Vaccari, Stefano Maffei

EXECUTIVE SUMMARY

The research project FIDUCIA (New European Crimes and Trust-based Policy) is funded primarily by the European Commission under the 7th Framework programme for Research. FIDUCIA will shed light on a number of distinctively 'new European' criminal behaviours that have emerged in the last decade as a consequence of technology developments and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation, and proposes a 'trust-based' policy model in relation to emerging forms of criminality.

D3.1. aims to offer an overview of both instrumental and normative approaches to foster compliance with the law. It assesses the rationale behind both deterrence-based policies and legitimacy-based policies as well as their relevant drawbacks and limitations. It also presents some examples of intended and unintended consequences of repressive and inclusive crime control strategies and it argues in favour of a shift from narrow instrumentalism to a broad approach to compliance based on a greater emphasis on mechanisms of normative control.

Topline findings

- Instrumental and normative strategies are two distinct ways of fostering compliance with the law. Instrumental strategies assume that individuals comply with the law out of self-interest. Citizens respond to a structure of disincentives created by the law through threats and penalties. Therefore, changing the likelihood of sanctions or the length of prison sentences will make offending more costly and, therefore, less prevalent.
- Deterrence and instrumental compliance appear to have an impact on relatively minor forms of illegal behaviour such as illegal parking, fast driving or littering, while their impact on other types of crime has been widely disputed. Instrumental compliance often yields to short-term reduction in crime rate with no or very limited impact in the long run.
- Normative strategies shift the focus from why people break the law to why people comply with the law. Normative compliance occurs when people feel a moral or ethical obligation or commitment to do so. The perceived legitimacy of the authority has a greater impact on the individual decision as to whether to take an unlawful course of action than does the perceived threat of sanctions and the level of punishment it presents. People will voluntarily comply with the rules even if this goes against their own pure self-interest if the law and the state are regarded as legitimate. Instead of focusing on the individual structure of incentives, the normative approach looks at the internalised norms and values of a given individual.
- Procedural justice, quality of the decision-making, quality of treatment and motive-based trust are all factors that may have an impact on legitimacy, which in turn affects compliance, cooperation and police empowerment. Procedural justice is, therefore, one of the antecedents of legitimacy.
- The paper argues in favour of a shift from narrow instrumentalism to a broader approach to compliance, putting more emphasis on legitimacy, the fairness and quality of judicial processes, and on mechanisms of normative control (trust-based policies). Acting on social norms, trust-based policies aim to ensure sustained compliance over time, reducing the level of crime and the recidivism rate, while avoiding extremely costly measures such as extensive incarceration. As a welcome side effect, they should decrease the prominence of so-called penal populism, keeping at the same politicians responsive to public opinion, and to the demands coming from citizens.

INTRODUCTION

Growing feelings of insecurity and of fear of crime and their consequences on criminal policies have been extensively debated all across Europe since the beginning of the organized study of social factors regarding crime, perhaps most prominently by renowned scholars Emile Durkheim and Max Weber. More recently, despite fairly persuasive evidence of an overall decline in crime rates in the last two decades (e.g. Tseloni et al. 2010), European citizens generally think that crime is steadily on the rise. Concerns about crime tempt many politicians and lawmakers across Europe to offer 'common-sense' solutions that include tougher punishment, more legislation and, more broadly, the pursuit of repressive strategies designed to 'crack down' on crime. Tougher punishment and more repression are often seen as an easy and electorally popular shortcut to address the demand for increased security coming from citizens/voters.

However, besides repressive strategies, a second way to foster compliance with the law and address issues of security has been slowly emerging: the so-called 'procedural justice approach', which lies at the foundation of a trust-based model of compliance with the law and is the culmination of the study and work of experts in the fields of criminology and sociology over the past few decades.

This paper will examine existing literature and data regarding both the instrumental and the procedural justice approaches, highlighting the relevant features of each approach. After each approach has been discussed and illustrated with examples, this paper will then propose a shift from narrow instrumentalism to a broader approach based on trust and mechanisms of normative control.

1. INSTRUMENTAL COMPLIANCE AND REPRESSIVE STRATEGIES

Demand for increased security from citizens is often met by politicians with some variation on the same theme: tougher punishment, longer prison sentences, new criminal legislation, and ultimately more repression. Repressive strategies are often spelled out in populist terms, and promoted by politicians seeking short-term political gains. However, the instrumental model of compliance with the law presents an underlying scientific rationale that is far more complex than populist excesses may let us suppose. It is, therefore, critical to explore and fully understand the concepts behind repressive strategies by thoroughly evaluating both the theory and the empirical evidence.

Instrumental strategies are characterised by their reliance on achieving instrumental compliance with the law — typically through deterrent threat accomplished by penalties for non-compliance. They assume that individuals comply with the law out of self-interest. Based on this assumption, repressive strategies have been devised to deter criminal activity and ensure instrumental compliance with the law. The idea behind these strategies is that citizens respond to structures of disincentives created by the law. When deciding whether or not to engage in some criminal activity, an individual rationally assesses the cost of pursing that course of action against the benefits — usually material gain — they can derive from it. This idea relies on the notion that people comply with the law as a result of a cost/benefit calculation. Therefore, changing the likelihood of sanction, or the length of prison sentences or introducing tougher punishment (i.e. changing the structure of incentives to which individuals respond) will make offending more costly and, thus, less prevalent. This secures a kind of compliance with the law known as 'instrumental' (or self-interested or providential), which forms the basis of the economic approach to crime and offending behaviour.

1.1. The Economic Approach to Crime and Offending Behaviour

In economic terms, we may think of fostering compliance with the law as minimising the supply of offenders.

According to this approach people comply with the law not because they are motivated by values or internalised norms, but as the result of a cost/benefit calculation. The instrumental approach to compliance is at the basis of what has been widely known as the economic approach to crime and offending behaviour, a theory pioneered and thoroughly developed by the influential American economist and Nobel Prize recipient Gary Becker. Becker's theory assumes that a person commits an offence if the resulting utility exceeds the expected utility of directing his time and other resources in a law abiding fashion (Becker 1974: 9). In other words, if one expects to gain more by unlawful activity than lawful activity, it is likely that an individual will commit an offence. Thus, some individuals commit crime not because their basic motivation differs from that of other people, but because their costs and benefits differ.

The economic approach rests on the idea that a penalty should equal the offender's expected gain plus a premium 'to ensure that the potential offender will not be indifferent to violations of the law' (Emmett H. Miller III, Federal Sentencing Guidelines for Organizational Defendants, 46 Vand. L. Rev. 197, 204 (1993). Thus, the sanction should be set up such that the expected penalty cost outweighs the expected gain from the offence' (Id.). However, tougher sentences and convictions are only one element of the equation. When individuals consider criminal actions they also weigh the probability of being caught and convicted. Thus, if we are to increase public order by discouraging some offenders, this theory suggests that we should choose the optimal values for two distinct parameters of the equation: (a) the size of punishment; and (b) the probability of apprehension and conviction. Despite this theory, populist supporters of the economic approach often neglect the role played by the probability of conviction and stress only the weight of punishment. The probability of apprehension and conviction derives from the efficiency and effectiveness of the judicial system as a whole, including the work of law enforcement agencies.

Becker's theory also posits that the probability of being caught and convicted has a greater impact on the cost of committing an unlawful activity than the severity of punishment. It is argued that, if offenders are risk-takers (which Becker believes they are), then an increase in the probability of conviction will reduce the expected utility of a crime and, thus, the number of offences, more than an equal increase in the size of punishment (for details on the mathematical model see Becker 1974: 11).

There are a number of ways in which the probability of apprehension and conviction can be increased. Some examples include: more rigorous and innovative police practices and a speedier and more efficient justice system. Such improvements may be achieved by increased resources available to law enforcement agencies and the judiciary system, but also through changes in the internal organisation of such agencies and the implementation of best practices. The latter strategies have the undoubted advantage of reducing costs and, at the same time, increasing efficiency and arguably efficacy. For example, in assessing the Italian case through an innovative frontier analysis approach, Cima (2011) demonstrated that efficiency in the Italian civil justice system varies greatly among the 29 Court of Appeal districts. Her research suggested that adopting the best practices developed by the best districts would increase the overall output by 58% (without changing the level of input). Corrado and Leonardi (2007) have shown that, if all the Italian Tribunals had modelled their internal practices on the ones followed by the Turin Court (best practice), the average length of a civil trial would have dropped from 1 007 to 769 days in the five-year period between 2001-2005.

In the instrumental compliance approach, a key concept is that of deterrence, as opposed to legitimacy in the trust-based approach (see paragraph 3), and we shall now take a closer look at it.

1.2. DETERRENCE

The concept of deterrence is that people make rational calculations about the costs and benefits of different courses of action, and that threat of punishment can be deployed to alter the balance of costs and benefits and thus to shape behaviour. Criminal law can be envisaged as a system of deterrent threats, in which the state communicates a range of deterrent threats to those who might contemplate engaging in outlawed behaviour. For deterrence to operate effectively, the state has to communicate a credible threat of punishment to the right audiences. Threats are credible when the risk of sanction is significant and the weight of sanction is enough to affect behaviour.

Deterrence theory and research in criminology has attracted academic interest over many years (Beccaria, 1764/1995; Bentham, 1823/1948; Gibbs, 1975; Zimring & Hawkins, 1973). Research in this area gained momentum in the 1960s when the aggregate effect of sanctions on crime rates were studied (G. S. Becker, 1968; Tittle, 1969). Since then, there has been recognition that deterrence is as much a psychological phenomenon as it is a sociological one, and research has concentrated on investigating the relationship between individual perceptions of sanctions, risks, severity, and criminal involvement (Grasmick & Bryjak, 1980; Paternoster, 1987; Paternoster, Saltzman, Waldo, & Chiricos, 1983b; Saltzman, Paternoster, Waldo, & Chiricos, 1982; Waldo & Chiricos, 1972).

The deterrence hypothesis states that when the certainty, severity, and celerity of criminal sanctions are high, criminal behaviour will be low. Deterrence theorists generally distinguish between general deterrence — the effect of a deterrent threat on the general population — and specific (or special) deterrence, which focuses on the impact on the subsequent behaviour of those who have actually been sanctioned. Additional to any specific deterrence effects there are also 'incapacitation' effects, whereby regardless of any criminal intent that they may still harbour, imprisoned offenders are obstructed from further offending (at least outside of prison) for the duration of their sentence (for reviews of the evidence on incapacitation, see Zimring and Hawkins 1995; Von Hirsch et al, 1998; see also Nagin 1998).

1.3. PENAL POPULISM

In 1995, while describing one of the four main influences which he noticed at work on contemporary criminal justice and penal structure, Tony Bottoms coined the phrase 'populist punitiveness'. It aimed to convey the notion of politicians tapping into what he perceived to be the public's generally punitive stance and using it for their own purposes. Roberts and colleagues used a similar term, penal populism, which they defined as follows: 'penal populists allow the electoral advantage of a policy to take precedence over its penal effectiveness.'[51]

Penal populism aims to pursue a set of penal policies to receive short-term benefits at the ballot box, rather than to reduce crime and administer justice over the long term. Since public responsiveness is a central feature of democracy, and the aim of electoral system is to ensure that politicians comply with the wishes of their electorate, it logically follows that politicians will be responsive to public opinion. It is obviously a question of judgement to assess when legitimate responsiveness becomes unacceptable populism.

At any rate, the effects of repressive and over-simplistic approaches to crime have

51. Julian V. Roberts *et.al* '*Penal populism and public opinion-lessons from five countries*', 2003, p. 5

largely been disputed. 'Getting tough' on crime may be popular and may be publicly perceived as addressing crime, but also does not seem to have any real effect on crime itself. The populist responses are strongest and most likely to influence policy when presented with the common enemies who are portrayed almost as dramatic villains by colourful television presentations. For example, paedophiles, young offenders, and gangs are far more likely to be portrayed than white collar crime, traffic offences, or other less scandalous forms of crime.[52] The concept of penal populism leads to the increase in imprisonment rate, thereby overcrowding prisons, and almost certainly imprisonment alone is ineffective at deterring offenders — rehabilitation rarely occurs and the recidivist rate remains very high. Further, media-driven public sentiments only serve short term political goals, leaving general public safety and justice administration perpetually an issue.

The instrumental approach to compliance has often been reduced to a sort of penal populism, and the associated policies boiled down to an over-simplistic 'getting tough' approach. Yet, penal populism and instrumentalism remain two separate entities. Arguably, penal populism can be seen as a distortion of instrumentalism for electoral gains. The theory behind instrumentalism is much more developed and complex than populists would have us believe. However, also in its 'purest' form purged of the populist excesses, instrumentalism shows some limitations and drawbacks, which we will now turn to address.

1.4. RETHINKING INSTRUMENTAL COMPLIANCE AND REPRESSIVE STRATEGIES

In their meta-analysis of 214 aggregate-level studies of crime published between 1960 and 1999, Pratt and Cullen (2005) have shown that variables related to an increased use of the criminal justice system (e.g. increased policing, such as police per capita, police expenditure and police size, and 'getting-tough' policy effects) are among the weakest macro-level predictors of the level of crime. An exception is the incarceration rate, which emerges as one of the five predictors to receive a high rating on both strength and stability (Pratt and Cullen 2005: 399 and 417). Yet, as pointed out by the same authors, it is difficult to disentangle whether this is due to imprisonment having a deterrent impact or just a consequence of the incapacitation of the offenders (Pratt and Cullen 2005: 417; Spelman 2000).

In another study, Piliavin and colleagues (1986) have tested the deterrent effect of formal sanctions on criminal behaviour using individual data gathered within a longitudinal design based on three distinct populations of individuals at risk of formal sanctions. Their results show that risk perception among these individuals is inconsistent over time. However, they found some empirical support for the reward component of the rational-choice model (e.g. perceptions about opportunities deriving from criminal activities) but not of the deterrence component (e.g. the cost associated with both formal and informal sanctions).[53]

More generally, as noted also by Cook already in 1977, we have some evidence of short-term reduction in crime resulting from an increase in the level of threat, but we are still far short of definitive evidence on the long-term effects of punishment on the amount of crime; 'and yet the long-term effects (enculturation, habit formation, respect for the law) may be the most important' (Cook 1977: 204, see also Cook 1980). This view is shared by Nagin (1998), who maintains that 'the criminal justice system exerts a substantial deterrent effect' (p. 359). However, 'while I am convinced that a number of studies have credibly identified marginal deterrent effect, it is difficult to generalize from the findings of a specific study because the knowledge about the factors that affect the efficacy of policy is so limited' (p. 360). Specifically, he pointed to at least three

52. On this issue, and on penal populism in relation to the death penalty see also Z. Bauman, *In Search of Politics*, Stanford Univ. Press, 1999.

53. Major issues of validity and reliability in relation to the measurement of deterrence effects have emerged over the years; see, on this, Cameron (1988) and Fattah (1983).

major impediments (pp. 360–361):

1. The evidence we have is mainly about short-term deterrent effects while little is known about the long-term effects;
2. We often have a knowledge gap between individual risk perception and a given sanction policy;
3. The impact of specific policies greatly depends on their implementation across the population unit.

More generally, deterrence theories are based on the notion that human beings are rational actors who consider the consequence of their behaviour before actually committing a crime. People's behaviour is not always shaped by instrumental considerations and some of the people involved in crime may be particularly bad at economic decision-making for a number of reasons (e.g. they may be under the influence of drugs or alcohol at the time of their offence).[54] In addition, they may weigh short-term benefits more than long-term ones.

The deterrence theory and the economic approach fundamentally rely on the criminal, or potential criminal, truly knowing of the 'cost' of committing the crime. Thus, the theory fails if the individual is unaware of the sanctions of committing a certain crime or if the individual is unaware of the criminal nature of his/her conducts. This limitation is critical when considering 'new' crimes such as unregistered migration. In Italy, for example, unregistered migration was criminalised overnight when, in July 2002, the Italian Parliament passed the Bossi Fini amendment.[55] Instantly, thousands of people became 'criminals'. It is likely that many were unaware of this status and, therefore, could not be deterred or weigh the costs and benefits of remaining in Italy following the change in the law. Furthermore, there are important human rights concerns that arise from the recent EU phenomenon of criminalizing border crossing and unregistered presence by people in the territory of a state (for more information, see Commissioner for Human Rights, *Criminalisation of Migration in Europe: Human Rights Implications*, https://wcd.coe.int/ViewDoc.jsp?id=1579605, last accessed at 18 June, 2012).

In addition, the results of being 'tough on crime' have proved to be quite costly in terms of resources. Italy currently houses more than 65 000 prisoners, crammed into jails which were designed to hold 44 000 inmates,[56] and France is 8 000 places short in accommodation for the penal system's 64 000 inmates.[57] Both countries are faced with billions in rising costs.

Furthermore, non-violent drug offenders comprise a substantial percentage of the prison population and many studies have suggested that this number could be reduced if more treatment alternatives were available. While there are costs associated with treatment, research indicates that they tend to be far lower than the costs associated with lengthy terms of incarceration that show little evidence of deterring future offences. For example, a recent study from the United States showed that the cost of drug treatment in community-based programs as compared to incarceration yields a higher return on the investment while it improves, at the same time, the life outcomes of drug users. The study concluded that a dollar spent on treatment in prison yields about six dollars of savings, but a dollar investment in community-based treatment yields nearly 20 dollars in costs savings.[58]

The tendency to be 'tough on crime' also leads to increased sentences, some of which may be interpreted as disproportionate to the crime, or may have unintended consequences. Politicians should, and often do, respond to public opinion. However, a balance needs to be stricken between responsiveness to public demands and the policies put forward if we are to avoid undesirable consequences of the legislative action. Consider the following example: the public decides that rape deserves a higher

54. Christopher Mumola. '*Substance Abuse and Treatment, State and Federal Prisoners, 1997*'. Bureau of Justice Statistics Special Report, 1999.

55. Fordham International Law Journal, *Fortress Italy: Racial Politics and the New Immigration Amendment in Italy*, 2003

56. '*Italy Considers Reopening Two Alcatraz-Style Island Prisons*', The Telegraph 24 April, 2012.

57. 'Official postpones jail terms because of French prison overcrowding', World News RFI 29 July, 2011.

58. Steve Aos, Marna Miller, and Elizabeth Drake, '*Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*', Olympia: Washington State Institute for Public Policy, 2006.

sentence, and politicians promptly respond to such demand. As a consequence, the sentence for rape is increased. However, if this continues, the punishment for rape could exceed the punishment for homicide. Thus, if a criminal engages in a cost/benefit calculation they would be more likely to kill their rape victim to avoid a higher sentence. This gives rise to the need to balance public opinion and sound criminal policy (for more, see Mike Maguire, Understanding public attitudes to criminal justice).

2. NORMATIVE COMPLIANCE AND PROCEDURAL JUSTICE

Most people behave well to others most of the time out of normative rather than instrumental considerations. On this assumption, there has been growing interest in ideas of 'normative compliance with the law' (see Bottoms 2002) and 'social motivations' (see Tyler 2010). This section speaks about the norms and the effect they have on our society.

In every society there is a body of unwritten laws, usually defined by sociologists as 'norms', that establish what is regarded as socially acceptable ('normal') and what it is not ('deviant'). Norms are unplanned and unexpected, resulting from customary interactions between individuals in a given society.[59] Sociologists have focused on how these social norms motivate people to act in a certain manner (Durkheim 1950; Parsons 1937; Parsons and Shils 1951; Coleman 1990; Hechter and Opp 2001). Norms change over time as the social structures and interactions within a society evolve. In the *Oxford Dictionary of Sociology,* Scott and Marshall (2005: 451) define a norm as 'a shared expectation of behaviour that connotes what is considered culturally desirable and appropriate. Norms are similar to rules or regulations in being prescriptive, although they lack the formal status of rules'. Social norms are often subject to informal mechanisms of enforcement. They play a key role in societies since they are a powerful device that promotes social regulation and control, and arguably also social order. Over the years it has increasingly become the opinion of legal and sociological scholars that laws based on social norms would be an ideal alternative to punitive legal rules as they focus on providing a single low cost mechanism while internalizing negative externalities (Ellickson 1991; Posner 2000).

Informal systems of social control influence people's orientation to the law. For example, distributive justice theories (e.g. relative deprivation, equity, justice motive theory) have consistently drawn the conclusion that citizens' satisfaction with the outcomes of social conflict is influenced by the extent to which allocations of judicial resources are consistent with conventional standards of what the parties involved deserve.. Consequently, equity theorists (Adams, 1965; Homans, 1961; Walster, Bersceid, & Walster, 1976) assume that an individual's sense of equity acts as a powerful norm influencing social behaviour. [60]

In seeking an answer to the question of why people comply with the law, the focus here is on the normative dimension of compliance and not on the instrumental one. Normative compliance occurs when people feel a moral or ethical obligation or commitment to do so. As maintained by Tyler,

> 'If people view compliance with the law as appropriate because of their attitudes about how they should behave, they will voluntarily assume the obligation to follow legal rules. They will feel personally committed to obeying the law, irrespective of whether they risk punishment for breaking the law. This normative commitment can involve personal morality or legitimacy. Normative commitment through personal morality means obeying a law because one feels the law is just; normative commitment through legitimacy means obeying the law because one feels that the authority enforcing the law has the right to dictate behaviour (Tyler 2006: 3–4).'

59. *Bicchieri, Cristina and Muldoon, Ryan, 'Social Norms', The Stanford Encyclopaedia of Philosophy (Spring 2011 Edition), Edward N. Zalta (ed.).*

60. Jason Sunshine, Larry Heuer, Deservingness and Perceptions of procedural justice in citizens encounters with police.

The idea behind this is that the perceived legitimacy of the authority has more of an impact on the individual decision as to whether to take an unlawful course of action than the perceived threat of sanctions and the level of punishment it presents. Instead of focusing on the individual structure of incentives, the normative approach looks at the internalised norms and values of a given individual.

2.1. LEGITIMACY

Both morality and legitimacy are normative, but not identical. The need for legitimacy or societal acceptance for the judicial system arises out of the premise that the members of the society comply with law if it seems acceptable to them.

As pointed out by Tyler (2006: 4), morality can indeed lead to compliance with the law, but also work against it. An example given by Tyler is the Vietnam War, during which 'those who believed in the legitimacy of the government fought in the war regardless of their personal feelings about its wisdom. For others the perceived immorality of the war was a factor leading them to oppose and violate the law' (p. 4). From the perspective of political or legal authorities, 'legitimacy is a far more stable base on which to rest compliance than personal or group morality, for the scope of legitimate authority is much more flexible. It rests on a conception of obligation to obey any commands an authority issues so long as that authority is acting within appropriate limits' (Tyler 2006: 25–26). Put another way, people often evaluate 'just' enforcement of the laws with the strength of their '[belief] that the authority enforcing the law has the right to do so.'[61]

Studies have gone so far as to suggest that 'legitimacy matters more to compliance than instrumental factors' to the extent that 'the regression estimate for legitimacy on compliance was about five times greater than the estimate for deterrence.'[62] How a government treats an individual tells them volumes 'about how the authority in question views the group to which the individual evaluator perceives herself belonging.'[63] Thus, strategies that particularly involve singling out any particular group decrease legitimacy with that particular group and increase the likelihood of antisocial behaviours within that group, as scholar Jeffrey Fagan explains 'In minority communities, these pressures often motivate citizens to withdraw from engagement with the legal system in the co-production of justice and security, while alienation and cynicism give rise to forms of opposition and resistance that further unravel the system's legitimacy.'[64] Fagan goes on to explain that

> 'First, people who view the law as illegitimate are less likely to obey it, and people who view police officers and judges as lacking in legitimacy are less likely to follow their directives. Although the law is based on the implicit or explicit threat of sanctioning for wrongdoing, the legal system depends heavily on voluntary compliance from most citizens. Hence, lower levels of legitimacy make social regulation more costly and difficult. So, legitimacy is both a social and a political good.'[65]

Studies have also provided examples of how legitimacy affects individuals' willingness to comply with the law. For instance, Tom Tyler discusses both theoretically and empirically how various aspects of the Dutch legal system may affect

61. Tracey L. Meares, 'Norms, Legitimacy, and Law Enforcement', Yale Law School Legal Scholarship Repository

62. *Id.*

63. *Id.*

64. Fagan, Jeffrey 'Legitimacy and Criminal Justice'

65. *Id.*

ethnic minorities' attitudes towards justice, and Hans-Jorg Albrecht does the same with the German legal system.[66] The results of their findings were consistent with the theory that as perceptions of legitimacy decrease among a population group, so does compliance with the law within that group.

Normative influence responds to factors different from consideration of reward and punishment: 'the key feature of normative factors that differentiates them from considerations of reward and punishment is that the citizen voluntarily complies with rules rather than respond to the external situation' (Tyler 2006: 24). Key to this approach is the assumption that people will voluntarily comply with the rules even if this goes against their own pure self-interest. As argued by Bicchieri (2006), norm existence and compliance can be best understood in terms of conditional preferences for following behavioural rules that apply to classes of social interactions. Preferences are conditional on two different kinds of expectations: the empirical expectation that a sufficient number of people adhere to the behavioural rule, and the normative expectation that other people expect one to follow the behavioural rule as well, and possibly enact positive/negative sanctions for conformity/transgression.[67]

2.2. PROCEDURAL JUSTICE

This section speaks about how the fairness in terms of the judicial systems procedures affects the people and their compliance of the law, beginning with the question 'What is procedural justice?'

Every legal procedure can be viewed not only in the terms of the result but also from the point of view of the process itself.[68] Recent studies have shown that of all the forms of procedural justice are most central to people's relation to society and their willingness to co-operate (Tyler & Blader 2000). Two key aspects of procedural justice are (i) fair decision making, i.e. participatory, neutral, transparent, rule based and consistent; and (ii) fair interpersonal treatment, i.e. trust in the authorities, respect for people and their rights, treatment with dignity and courtesy (Tyler 2009).

The idea is that a judicial system should be fair in delivering justice and in the process leading up to it. The outcome of any judicial finding must be fair as construed by the people. Essentially the procedure employed for this judicial finding must be fair. Fair procedures have psychological implications on the social identity including one's membership in a social group. (Lind and Tyler, 1988; Tyler 1989; Tyler and Smith 1990).

Procedural justice theory is concerned with the individuals' compliance with the law and can be summarised by the following five-stage model (outlined in Hough et al. 2010):

1. The starting point is the treatment that people receive at the hands of the police and justice officials, which in turn influences:
2. the trust that people have in institutions of justice, which in turn influences:
3. the legitimacy people confer on institutions of justice, and as a consequence:
4. the authority that these institutions can then command when they are regarded as legitimate; and finally:
5. people's preparedness to obey the police, comply with the law, and cooperate with justice.

According to Tyler (2003: 307), procedural justice, quality of the decision-making, quality of treatment and motive-based trust are all factors that may have an impact on legitimacy, which in turn affects compliance, cooperation and police empowerment. From this view, procedural justice is one of the antecedents of legitimacy. Compliance, as spelled out by the same author, can be of two kinds: immediate or long term. In addition to this, the concept of procedural fairness may also be seen in Article 6 of the European Convention on Human Rights. According to Tyler (2003: 306–307), 'one

66. *Tyler, Tom 'Legitimacy and Criminal Justice'*

67. *Bicchieri, Cristina and Muldoon, Ryan, 'Social Norms', The Stanford Encyclopedia of Philosophy (Spring 2011 Edition), Edward N. Zalta (ed.),*

68. R. Summers, '*Evaluating and Improving Legal Process – A Plea for Process Values*', 1974 (1) Cornell Law Review, p.1.

particular advantage of procedural justice is that it leads to compliance over time. This suggests that experiencing procedural justice changes people's values concerning the law. ... In other words, people on experiencing procedural justice feel a responsibility and obligation to obey the law. This leads to compliance that is sustained over time'.

Hence, if people regard the law as legitimate, they would tend to follow it to a greater extent. For example, the closest representatives of the law to the public are the police; thus, the methods employed by the police affect public perceptions of procedural fairness.

Bottoms and Tankebe (2011: 147) summarise Tyler's model of procedural justice as follows: 'judgements about procedural justice — defined as encompassing "quality of decision-making" and "quality of interpersonal treatment" — shape people's assessments of the legitimacy of legal institutions. Those assessments, in turn, have been shown to explain decision acceptance, support for legal institutions and legal compliance.' The relationship between judgements of self-interest and procedural fairness, it should be observed, may differ across socio-economic strata. Disadvantaged persons, in contrast with those who are better off, may place less importance on procedures.[69] Formal authorities, such as judges, are given a large element of discretion to interpret the best way to enact a procedure (Tyler & Bies, in press). This discretion is presumed to be shaped by their intention. Trust involves the belief that the intentions of third parties are benevolent, that they desire to treat people in a fair and reasonable way.

In conclusion, the need for the judicial system to be fair and just is emphasised by the reflection of the people's collective expectations as a society, especially since the justice system alters their interaction as a society[70].

Some Empirical Findings

Procedural justice theory has been tested in several studies, mainly in the US and the United Kingdom. Based on a panel dataset of Chicago residents randomly sampled, Tyler (2006: 98; first published in Tyler 1990) shows that procedural justice does indeed have a significant statistical impact on the perceived legitimacy of authorities. Other works have supported the view that procedural justice is 'the key factor shaping people's overall orientations toward legal authorities, government, and law. Neither outcome fairness nor outcome favourableness separately influenced people's views about the legal system' (Tyler 2003: 314; see also Tyler, Casper and Fisher 1989). Using the findings of two surveys carried out among residents of New York City, Sunshine and Tyler (2003) show that procedural fairness has the highest impact on legitimacy when contrasted with distributive fairness, police performance and risk, and controlled for the usual socio-demographic characteristics of the respondents (gender, income, age, ethnicity and education). Legitimacy, in turn, proved to have a statistically significant effect on shaping respondents' behaviour as to their level of compliance with the law, cooperation with police and police empowerment (Sunshine and Tyler 2003: 528 and 531).

Jackson et al. (under review) have extended Tyler's model to England and Wales. Based on a nationally representative survey of adults in England and Wales, they found empirical support for the effect of procedurally fair policing on increasing compliance. As maintained by the authors, their findings 'speak to the centrality of normative factors in shaping public behaviour in relationship with the police. These include not only the sense of obligation to obey the police and the law, but also the judgement that the police act in ways consistent with people's views about what it is right and wrong': ultimately, 'these value-based factors motivate compliance' (p. 11).

In addition, the FIDUCIA project will soon provide empirical evidence about the effectiveness of the procedural justice model beyond the English-speaking world based on the forthcoming results of European Social Survey — Round 5 (Hough et al. 2010).

69. E. Allan Lind & Tom R. Tyler, '*The Social Psychology of Procedural Justice*', New York: Plenum, 1988 p.267.

70. In the case of migrants, the level of trust in the police and the legal system of the destination country is influenced not only by the perceived quality and fairness of the treatment they may have received in such a country, but also by 'the frame of reference linked to the origin country' (Roder and Muhlau 2012: 384).

2.3. TRUST-BASED POLICY

Rather than pursue methodologies of criminal policy that revolve solely around deterrence and instrumental compliance, the goal of the FIDUCIA project is to establish, quantitatively and qualitatively, an alternate set of criteria for social policy — criteria based not on narrow instrumentalism (fear of sanction), but trust. These criteria will be based on statistics, facts, and examples provided by the wealth of criminological efforts by individuals and governments over the last half century.

A more comprehensive model will be outlined by WP5 of the FIDUCIA project, but it is perhaps of some value to anticipate here some of the factors that have been identified as indicators that a policy is either fear- or trust-based.

Fear-based (narrow instrumentalism) policy factors:

- An emphasis on punitive deterrence methodology. This can include increasing the sentences for existing crimes or criminalizing new behaviours.
- An emphasis on distinguishing between groups of people, creating an 'in group' and an 'out group'. Examples include blaming youth, immigrants, or ethnic minorities for crime.
- An emphasis on appearing 'tough' and treating persons detained by the police accordingly.
- An emphasis on portraying crime in a sensationalized manner, making dramatized entertainment of what would ordinarily be simple news.
- An emphasis on the use of symbols of authority that serve to alienate the public from the authority.

Trust-based policy factors:

- An emphasis on rehabilitation with regard to sentencing focusing not just on punishment, but also to avoid further alienation of the criminal.
- Sentencing options beyond mere imprisonment, and in cases where imprisonment is necessary, providing rehabilitative and educational opportunities allowing an offender to develop skills that are beneficial to society while rehabilitating detrimental behaviours.
- An emphasis on transparency and integrating police with the community. Greater police visibility leads to higher confidence among the public.
- An emphasis on treating all citizens even suspected or convicted criminals, with respect in regard to their rights.
- An emphasis on reporting crime proportionate to other relevant news.
- An emphasis on legitimacy built on a relationship between the law and the society rather than institutional legitimacy, marked by a uniform, a cap, and a badge.

Example 1: The Norwegian Prison System

As an example of trust based criminal policy, Norwegian criminologist Nils Christie speaks of reforms in the Norwegian prison system in his book 'A Suitable Amount of Crime'. Among the reforms are lectures from experts to both prisoners and guards, sometimes even together. This helps decrease alienation among inmates and increases their view of the prison system as a legitimate government entity. By increasing educational and cooperative opportunities for inmates, trust in the system grows and acceptable social norms are reinforced. Christie reports that 'the prison school has recently asked for college status' and that as a result of all of these opportunities, 'the prison guards feel more qualified these days and take on tasks close to therapeutic ones after attending some extra courses.'[71] The result is that inmates become more integrated with normative social interactions and instead of being alienated, develop useful skills,

all of which serve to decrease the recidivist impulse.

Norway is not the only nation with such prison reforms. Bulgaria allows inmates to work for pay, with 2 days of work counting towards 3 days of their sentence, and also provides education.[72] Iceland requires inmates to work or study for compensation, and in Monaco, prisoners are allowed to visit other cells during the day. Each cell has television and the prison philosophy is to maintain as normal a life as possible to facilitate reintroduction of the inmate to society.[73]

However, many nations have chosen other paths, primarily through the increase in deterrence or fear-based measures. For example, The Netherlands responded to two high profile assassinations of prominent citizens in the early 2000s with dramatic shifts in attitudes towards crime, despite an actual decrease in the overall crime rate. Everyone over 14 must now carry an ID, maximum penalties for crimes have been increased, police power has been expanded, and search and seizure operations are more common. The country has also seen an increase from 20 per 100 000 inmates to over 100 per 100 000 in thirty years, with the largest increase in the past decade.[74] Italy in 2009 criminalized unregistered immigration at a time when it had already been cited by various European commissions for lengthy trial waiting periods, sometimes up to five years, and as a result half of its prison population is now composed of foreigners.[75] Finally, Belgium saw an increase in its prison population from 6 000 in 1991 to 10 000 in 2007, a 60% increase in just 16 years as a result of lengthened sentences in the 1990s.[76] The result in these countries has been increased strain on the procedural aspects of the justice system, which often receive less resources than the police and other agencies, and a general backlog of cases.

Furthermore, the Scandinavian countries have been stable in terms of the number of people being imprisoned for almost half a century. In Denmark, Norway and Sweden the range has been as narrow as between 40-60 prisoners per 100 000 population[77] (Seppala 2008). This demonstrates that the pursuit of a trust-based policy is not being 'soft on crime' and will not lead to a sharp increase in crime.

Example 2: England and Wales

Recent research in the United Kingdom suggests that the necessity of a trust-based system is being appreciated. The National Policing Improvement Agency (NPIA) conducted research on core questions related to public trust and policy legitimacy in a representative sample survey of England and Wales. The NPIA's observation was that whilst trust in police effectiveness is important for people's sense of the risk of sanction, the perceived risk of sanction is not a significant factor in complying with the law. Hence the NPIA data did not provide any support to the deterrence based policies currently in place. In fact, unjustified (in the public's eye) police action seems to discourage people from adhering to laws in England and Wales.[78]

It was further observed by Bottoms, when a cross-jurisdictional comparison of 'probation' in the United Kingdom was performed, that there is a key contrast in the treatment of re-offending, which constitutes evidence of non-compliance in Scotland but not in England since the Criminal Justice Act 1991[79] was enacted.

Furthermore, in 2011 the Home Office in England recognised the fact that the old methods for dealing with anti-social behaviour are not working and there is a need to find a system more suitable given the failure of the old methodology. A conscious effort is being made to shift from bureaucratic to democratic accountability while keeping the interest of the victim in mind. Restructuring has been done on the national level, primarily with the goal to target the growing crime rate. There has been considerable focus on empowering communities and the victims as they were the best judge of what is and what is not permissible in their community. Hence a more specific legal system is being developed rather than a generic one which is often faulty

71. Nils Christie, '*A Suitable Amount of Crime*'.

72. Aebi, Jaquier, and Newman, '*Crime and Punishment Around the World*'.

73. *Id.*

74. Aebi, Jaquier, and Newman, 'Crime and Punishment Around the World'

75. *Id.*

76. *Id.*

77. Tapio Lappi- Seppiala, Trust, Welfare and Political Culture: Explaining Differences in National Penal Policies.

78. Jackson, Jonathan, Bradford, Ben, Hough, Mike, Myhill, Andy, Quinton, Paul King and Tyler, Tom, Why Do People Comply with the Law? Legitimacy and the Influence of Legal Institutions (February 5, 2012). British Journal of Criminology, Forthcoming; Oxford Legal Studies Research Paper No. 11/2012. Available at SSRN: http://ssrn.com/abstract=1994490; Last visited 13th June 2012

79. This Act defined the various powers of the court in awarding sentences. It also identified children and young persons as a separate category when it came to sentencing for criminal activities and also provided a procedural requirement for reducing prison time along with some monitoring of the judicial system.

or not well suited for the said community. For example, the anti-social behaviour program spoke of stopping illicit drug abuse and launched a program called the Drug Intervention Programme which identified adults who were using drugs and diverted them away from crimes and towards treatment and recovery support. In 2010-11 they managed to identify 63 000 class A abusers and enrolled them in this program. Similar programmes have been launched: from dealing with drunken-drivers to promoting responsible pet ownership.[80]

3. CONCLUSIONS

Table 1. Penal Approach and Procedural Justice Approach

Penal Approach	Procedural Justice Approach
Instrumental compliance	Normative compliance
Deterrence	Legitimacy
Repressive strategies	Inclusive strategies
Fear-Based Policy	Trust-Based Policy

In any criminal justice system there is a place for deterrence and incapacitation. Bottoms (2004: 61) aptly maintains that 'there is no dispute among scholars that the existence of a criminal justice system (and hence of sentencing as part of that system) reduces crime below the levels it would attain if there were no such system (or only a very poorly functioning one)'. Furthermore, there is evidence that changes in enforcement and sanctions may have an impact on some kind of behaviour, e.g. speeding, illegal parking or tax compliance (Tonry 2008). Changes in disincentives to crime may change people's behaviour in some instances: 'human beings are influenced by incentives and disincentives, and offenders are human beings. For relatively minor form of prohibited behaviour such as illegal parking, fast driving, or littering, significant increases in the perceived likelihood of apprehension or severity of penalties influences behaviour' (Tonry 2008: 282). Yet, this does not apply to every type of crime, and the evidence on the overall impact of deterrence on reducing crime rate is far from being decisive (see for instance Torny 2008: 292-298 for an insightful review of researches conducted by both criminologists and economists). Crime rates are influenced by a number of factors other than sentencing (Bottoms 2004: 60): for instance, the demographic composition of a given society, its economic conditions and the situational measures in place to prevent crime (e.g. street lighting) all play a role in explaining variations in crime rates. As Bottom (2004: 61) explains, the key issue is not whether the police or the criminal justice system have a function in society, but rather 'to what extent do specific policy changes have marginal crime reductive effects?' From which the need follows to be specific regarding both the crime and the policy we are to assess.

Deterrence may have a differential impact on different types of crime as well as different individuals. Moreover, while deterrence has a commonsense appeal since 'it seems to be obvious that if penalties are raised, fewer people will risk those higher penalties by choosing to offend' (Bottoms 2004: 63), the empirical evidence is far from being decisive on this. Von Hirsh et al. (1999: 52) wrote that 'there is yet no firm evidence regarding the extent to which raising the severity of punishment would enhance deterrence of crime'. An often neglected point is that an increased severity of punishment may yield some reduction in crime in the short term, but no or very limited impact in the long run (on this, see Cook 1977 and Cook 1980: Nagin 1998). Furthermore, despite what populists would have us believe, more than the severity is the certainty of punishment that appears to have a greater impact on individuals' choices,

80. 2012 report to the Parliament by Secretary of State for the Home Department, 'Putting Victims First – More Effective Responses to Anti-Social Behaviour'.

as it was already clear to Beccaria and Bentham.

A more complex approach to compliance is therefore needed. For instance, the model of social control developed by Ellickson (1991: 131) presents five different sources of control, with the governmental (legal) control being only one of them. Besides the state enforcement through law, we can have organisational controls (organisational rules) as well as first-party (self-control) and second-party control. A fifth source is social control, that is to say control through norms. The fact that in modern societies criminal law and social norms are both present and active at one time was already clear to Emile Durkeim when he wrote *The Division of Labour in Society* (first edition 1893: for Durkeim social norms have a greater impact than criminal law on shaping individuals' behaviour).

In order to get a more comprehensive picture, we must then shift our focus from why people break the law to the question of why people comply with the law. This distinction or shift is important because questions about reasons for law-breaking tend to yield answers framed only within the boundaries of simple crime control models. They tend to imply approaches to crime control that are designed to secure instrumental compliance — that is, where people comply with the law out of self-interest (Mike Hough, *Why trust in justice is important*). However, questions about compliance need answers which recognise the interplay between formal and informal systems of social control. Instrumental and normative approaches may work at different levels. For instance, according to the instrumental compliance approach, taking an unlawful course of action is regarded as an option available to individuals who rationally evaluate the costs and benefits of their actions. This option may be more or less costly depending on personal dispositional and external factors (e.g. the severity and certainty of punishment), but it still remains a potential option. The goal of the normative compliance approach is to wipe out this option altogether acting on the normative side of human behaviour; thus, moving beyond narrow instrumentalism.

The limitations of narrow instrumentalism have become clear as prisons become and remain overcrowded, recidivism rates increase, and Europeans mistakenly believe that crime is on the rise. There is, thus, a need for a new strategy that allows criminal policy to utilize the public, strengthen community ties, and improve the fight against crime.

While not all aspects of fear-based policies are ineffective, research over the last decades has strongly pointed towards what we are now calling trust-based policies. We argue in favour of more emphasis on legitimacy and the fairness and quality of judicial processes. Trust-based policies should help us to overcome some shortcomings of narrow instrumentalism, including its predominantly short-term effects. Acting on social norms, trust-based policies should ensure 'a compliance that is sustained over time' (Tyler 2003: 307), reducing the level of crime and the recidivism rate while avoiding extremely costly measures such as extensive incarceration.

We are not suggesting that the two policy types share no overlap: in fact, both deterrence and moral influence may operate at the same time. For instance, deterrence may be seen as just one aspect of the broader concept of general prevention, which 'also includes the *moral* or *socio-pedagogical* influence of punishment. The "messages" sent by law and the legal processes contain factual information about what would be risked by disobedience, but they also contain proclamations specifying that it is *wrong* to disobey' (Andenaes 1974: 35, italics in the original). What we are suggesting is a shift from a narrow instrumentalism to a broader approach to compliance: crime policy needs to broaden its horizons and spend more effort on mechanisms of normative control. As a welcome side effect, this shift should decrease the prominence of so-called penal populism, keeping at the same politicians responsive to public opinion, and to the demands coming from citizens.

Work Package 3
State of the art:
Policies

3.2

Review of EU policies related to internal security

by: Joanna Parkin and Sergio Carrera

EU HOME AFFAIRS AGENCIES AND THE CONSTRUCTION OF EU INTERNAL SECURITY

Joanna Parkin[81]

1. INTRODUCTION

EU Home Affairs agencies play a central role in EU security policies. These supranational actors have, over the past decade, become increasingly active within the institutional architecture making up the EU's Area of Freedom, Security and Justice (AFSJ). Both the Stockholm Programme — the third multiannual programme on the EU's AFSJ — and the EU's Internal Security Strategy (ISS) — which establishes the EU's security policy agenda — place EU regulatory agencies such as Europol, Frontex, Eurojust, CEPOL as well as bodies such as OLAF, at the forefront of implementing and developing the EU's internal security model.

The mandates and tasks conferred upon these EU agencies, however, are limited; agencies are intended to be primarily 'technocratic actors' — they have no executive powers and are largely mandated to support, facilitate or coordinate the actions of Member States with which they share legal competence over policy areas of law enforcement, judicial cooperation and external border control. In addition to the delicate issues of national sovereignty, agencies operate in highly politicised and controversial policy domains, and are, therefore, subject to additional pressures to avoid accusations that their activities are 'politically driven'.

Against this background, the progressive, and in some cases highly dynamic, development of EU Home Affairs agencies over the past decade has been characterised, to a certain extent, by struggles for power and legitimacy, particularly via the use of 'alternative modes of governance', such as Union 'soft' law and policy. These non-legally binding policy instruments do not correspond to traditional EU regulatory acts but aim, nevertheless, to have an incremental impact by issuing model sets of rules, procedures and standards, 'best practices', guidance documents, working arrangements and other *de facto* activities with clear policy-making significance.[82] In other words, a central means by which EU Home Affairs agencies justify, legitimise and foster their powers is through the creation and control of 'knowledge' and its presentation as 'evidence'.

The EU's new Internal Security Strategy now takes this development one step further by integrating agency-generated strategic analysis products and intelligence tools into political priority and decision-making setting within the ISS. Agencies now play a critical role in providing the evidence base that supports EU policymaking and steers the EU security agenda. Yet, claims of evidence-based policymaking always need to be treated with caution. While such approaches aim to depoliticise policy, purporting to provide an objective, technical foundation for making judgements and prioritising problems[83], claims of evidence-based policymaking often conceal complex struggles around the control of knowledge in the policy process, diverting attention from the critical role played by policy actors in influencing the selection, processing and framing of facts and information. As Radaelli notes in his study of expert knowledge in European public policy, 'knowledge enters the policy process in combination with interests, never alone.'[84]

The nature and purposes of agency-generated knowledge, therefore, call for closer attention and reflection. Agencies such as Frontex have substantial research budgets and large departments dedicated to R&D and 'data gathering'. They are also responsible for the large-scale proliferation of 'knowledge' on security threats facing the EU via

81. Joanna Parkin is a Researcher at the Justice and Home Affairs section of the Centre for European Policy Studies (CEPS). This paper was written under the supervision of Dr. Sergio Carrera, Senior Research Fellow and Head of the Justice and Home Affairs section of CEPS. The author would like to thank Prof. Elspeth Guild, Associate Senior Research Fellow at CEPS for her comments on a preliminary version of this paper. She is also grateful to the representatives of Europol, Frontex, Eurojust, OLAF and CEPOL who took the time to complete the questionnaires on which this research is based.

82. E. Guild et al. (2011), *Implementation of the EU Charter of Fundamental Rights and its Impact on EU Home Affairs Agencies*, study prepared for the LIBE Committee of the European Parliament, Brussels.

83. M. Naughton (2005), '"Evidence-based" policy and the government of the criminal justice system – only if the evidence fits!', *Critical Social Policy*, Vol.25, No. 1, pp. 47 – 69.

84. C.M Radaelli (1999), 'The public policy of the European Union: whither politics of expertise?' *Journal of European Public Policy*, Vol. 6, No. 5, pp. 757 – 774.

the regular publication of 'policy tools' such as threat assessments, risk analyses, periodic and situation reports.

Where does this knowledge originate and how is it processed in order to frame threats, justify actions and set priorities under the ISS? Furthermore, given the distinction that can be drawn between 'expert' knowledge and knowledge based on independent academic research (which is arguably better placed to meet stringent criteria of scientific rigour and objectivity), what is the place of Social Science and Humanities (SSH) research in agency knowledge production? This question is particularly important when we consider the essential role of SSH research for exploring the wider range of issues critical to understanding internal security and crime fighting, such as the broad societal context surrounding crime phenomena, the ethical implications of security policies and considerations concerning fundamental rights.

While existing academic literature on EU regulatory agencies focuses primarily on governance dilemmas, 'agencification', tensions between autonomy and accountability, and mapping the sociology of power through information exchange,[85] this research paper seeks to understand the role and functions of 'knowledge', the processes through which it is manufactured, manipulated and disseminated in the activities of EU Home Affairs agencies and the implications on the policy priorities driving the EU Internal Security Strategy. By conducting an in-depth examination of the knowledge base and the evidence that underpin policymaking within the ISS, including over so-called 'new European crimes' as understood by the FIDUCIA project — such as mobility-related and cross-border 'threats' — the paper will enable us to place the research of the FIDUCIA project within the rapidly transforming landscape of the EU's internal security policy agenda. By clarifying the uses (and misuses) of 'knowledge' as evidence and/or research in the construction of threats and the implementation of the EU's internal security strategy, this paper further aims to contextualize the question of trust-based policymaking in the EU. In particular, the study is guided by the following research questions:

1. What are the primary sources of 'knowledge' used by EU Home Affairs agencies? From where do these agencies obtain data for the construction and prioritisation of insecurity threats at EU level? What is the institutional and budgetary role of 'research' within those agencies?
2. How is the knowledge gathered by EU agencies processed and used? What approaches are employed to analyse and generate data as research and what systems are in place to test the reliability, quality and objective nature of the data and analyses?
3. How does knowledge frame the discourses, actions and priorities of EU Home Affairs agencies — both in legitimising and justifying agency activities and in shaping future priorities and actions?
4. What are the main policy tools that present or are based on that knowledge that are used by these actors? How does the 'knowledge' generated by EU agencies shape priorities established under the ISS and impact policy-agenda setting on the EU's wider ASJF?

In addressing these questions, this paper draws on a methodology of research and questionnaire surveys distributed to key representatives in Europol, Frontex, Eurojust, OLAF and CEPOL, which were returned with detailed responses.

The paper begins in Section Two by providing a brief overview of the Internal Security Strategy, highlighting the central new role of agencies in the so-called 'EU Policy Cycle'. Section three then undertakes an in-depth examination of agency activities for generating, disseminating and using 'knowledge' as set out in their

85. M. Groenleer (2009), *The Autonomy of European Union Agencies: A Comparative Study of Institutional Development*, Delft: Eburon Academic Publishers, 2009; M. Busuioc, *The Accountability of European Agencies: Legal Provisions and Ongoing Practices*, Delft: Eburon Academic Publishers, 2010; M. Busuioc, 'Accountability, control and independence: The case of European agencies', *European Law Journal*, Vol. 15, No. 5, 2009, pp. 599-615; D. Curtin, 'Holding (Quasi-) Autonomous EU Administrative Actors to Public Account', *European Law Journal*, Vol. 13, No. 4, July, 2007, pp. 523-541.

legal mandates and *de facto* activities. On the basis of this empirical overview, section 4 comes to identify four cross-cutting findings in the way EU Home Affairs agencies use and produce knowledge, its packaging as 'evidence' and the implications on the knowledge base underpinning the ISS.

2. THE INTERNAL SECURITY STRATEGY: THE ROLE OF EU HOME AFFAIRS AGENCIES AND KNOWLEDGE

The EU's Internal Security Strategy (ISS) was adopted by the Council of the EU in February 2010. The strategy sets out the common threats facing the Union and the principles and strategic guidelines to respond to these challenges, laying down the key elements of the so-called 'European security model'.[86]

The ISS starts by identifying a number of '*common threats and security challenges*' including terrorism, serious and organised crime, cybercrime, cross-border crime, 'violence itself', natural and man-made disasters and road traffic accidents,[87] drawing on examples taken from the Eurojust and Europol annual reports, as well as from threat assessments.

When moving to the 'responses' developed at EU level to tackle these challenges, the ISS cites the 'analysis of future situations and scenarios: threat anticipation' as a key instrument and refers specifically to the generation by Europol and other EU Home Affairs agencies of '*threat assessments*'.[88] The emphasis placed by the ISS on the contribution and activities of these EU Home Affairs agencies (particularly Europol, Eurojust and Frontex) corresponds to the political priorities set in the scope of the 2009 Stockholm Programme, which called upon the Council and the European Commission to 'define a comprehensive Union internal security strategy' on the basis of 'stringent cooperation between the Union agencies, including further improving the information exchange'.[89]

When outlining the main principles and strategic guidelines of action making up the EU Security Model, the ISS highlights, among other things, the following two guidelines:

first, the dimensions of 'prevention and anticipation: a proactive, intelligence-led approach', guided by a stronger focus on the prevention of criminal acts and terrorist attacks *before they take place*;[90] and second, effective operational cooperation among EU Home Affairs agencies, where the role of the post-Lisbon COSI (Standing Committee on Operational Cooperation on Internal Security) within the Council is shown as central for 'encouraging increasingly coordinated, integrated and effective operations'.

The ISS called on the European Commission to present concrete actions putting the Strategy into practice. This came in the shape of the Communication on 'The EU Internal Security Strategy in Action' adopted in November 2010,[91] which identifies the five 'most urgent challenges' (terrorism, serious and organised crime, cybercrime, border security and disasters) and proposes five strategic objectives and a number of specific policy actions from 2011-2014, aimed at making the EU 'more secure'. These include, by way of illustration, 'disrupting international crime networks', which according to the Communication:

> ... calls for more joint operations involving police, customs, border guards and judicial authorities in different Member States working alongside Eurojust, Europol and OLAF. Such operations, including Joint Investigation Teams, should be set up — where necessary at short notice — with the full support of the Commission in line with the priorities, strategic goals and plans established by the Council on the basis of relevant threat analyses.

86. Council of the EU, *Internal Security Strategy for the European Union: Towards a European Security Model*, 5842/2/10, Brussels, 23 February 2010.

87. The main '*crime-related risks and threats*' facing Europe today according to the ISS are: ... terrorism, serious and organised crime, drug trafficking, cybercrime, trafficking in human beings, sexual exploitation of minors and child pornography, economic crime and corruption, trafficking in arms and cross-border crime.

88. Council of the EU, *Internal Security Strategy for the European Union: Towards a European Security Model*, 5842/2/10, Brussels, 23 February 2010, p. 7.

89. Council of the EU, the Stockholm Programme – An Open and Secure Europe serving and protecting citizens, 5731/10, Brussels, 3 March 2010, p. 60.

90. Council of the EU, *Internal Security Strategy for the European Union: Towards a European Security Model*, 5842/2/10, Brussels, 23 February 2010, p. 11.

91. European Commission, Communication, *The EU Internal Security Strategy in Action: Five Steps towards a more secure Europe*, COM(2010)673 final, 22.11.2010.

As regards the second strategic objective dealing with the prevention of terrorism and radicalisation, the Communication notes that 'the threat from terrorism remains significant and is constantly evolving', an assertion made on the basis of the Europol's 2010 Terrorism Situation and Trend (TE-SAT) Report.[92]

Both the ISS and the Communication on the ISS in Action give EU Home Affairs agencies (and particularly Europol, Eurojust and Frontex) an elevated role in identifying and defining the phenomena considered as the most important security threats to the EU.

This position is further consolidated by a Joint Report issued by these three EU Home Affairs agencies in May 2010 entitled *The State of Internal Security in the EU*, which aims to provide an analysis of 'the principal threats to internal security in the EU' on the basis of three strategic documents:

- Europol's Organised Crime Threat Assessment (OCTA),
- Europol's Terrorism Situation and Threat Report (TE-SAT) and
- Frontex Annual Risks Analysis (ARA).

The Joint Report concludes, on the basis of the 'evidence' and 'analysis' carried out in these policy tools, that 'the internal security of the EU faces a substantial threat from organised crime, terrorism and illegal immigration',[93] which are deemed to require a concerted EU response. The report underscores the interconnected nature of organised crime, where counterfeiting, irregular migration, trafficking of goods and persons and terrorism are inter-linked and mutually facilitative phenomena.

As regards the implementation of the ISS, again a key role is envisaged for EU Home Affairs agencies. The architecture framing the practical implementation of the ISS is the so-called 'EU Policy Cycle'. In accordance with Council Conclusions adopted in October 2010 on '*the creation and implementation of an EU Policy Cycle for organised and serious international crime*',[94] the Policy Cycle aims at dealing with criminal threats:

> ... in a coherent and methodological manner through optimum cooperation between the relevant services of the Member States, EU Institutions and EU Agencies as well as relevant third countries and organisations.[95]

The policy cycle consists of four steps: (i) policy development on the basis of threat assessments; (ii) policy setting and decision-making by the Council through the identification of a number of priorities; (iii) implementation and monitoring of Operational Action Plans (OAPs); and (iv) an ex-post evaluation.

A first two-year Policy Cycle was agreed and is being implemented (2011-2013) on the basis of Europol's 2011 Organised Crime Threat Assessment (OCTA) report. This period is expected to serve as a learning process before the first fully fledged four-year policy cycle that begins in 2013, based on a new Serious and Organised Crime Threat Assessment (SOCTA). The new SOCTA will remain under the lead of Europol but will draw more explicitly on the input of other EU Home Affairs agencies and Member State authorities, integrating the contributions of a range of EU and national actors into one assessment. In turn, the operational plans which will be drawn up during the third step of the policy cycle will be incorporated into the various agencies' work programmes, thus giving EU Home Affairs agencies a key role in both the prioritization and the implementation phase of the cycle.

Thus a recent report issued by Europol summarising its experience in the implementation of the EU Policy Cycle underlines that:

> 'The commitment of the Justice and Home Affairs agencies remains crucial for the success of the EU Policy Cycle.' Frontex as the co-driver for priority C –

92. Footnote 16 of the Commission Communication, *The EU Internal Security Strategy in Action: Five Steps towards a more secure Europe*, COM(2010)673 final, 22.11.2010.

93. Council of the EU, *Joint Report by Europol, Eurojust and Frontex on the State of Internal Security in the EU*, 9359/10, Brussels, 7 May 2010, p. 10.

94. Council of the EU, *Council Conclusions on the creation and implementation of a EU policy cycle for organised and serious international crime*, 15358/10, Brussels, 25 October 2010.

95. Council of the EU, Council Conclusions on the creation and implementation of a EU policy cycle for organised and serious international crime, 15358/10, Brussels, 25 October 2010, p. 5.

illegal immigration has an important role to play. Next to Europol and Frontex, Eurojust, CEPOL and EMCDDA have been the main actors so far at agency level.[96]

The monitoring and coordination of the EU policy cycle takes place primarily at the Council's Standing Committee on Operational Cooperation on Internal Security (COSI). COSI was set up in February 2010 in order to facilitate operational cooperation and coordination in areas covered by police and customs cooperation, by authorities responsible for the control and protection of borders, as well as judicial cooperation on crime-related matters when relevant for operational cooperation.[97] COSI is additionally responsible for helping to ensure consistency in the activities of Europol, Eurojust and Frontex and 'other relevant bodies' which may participate as observers in Committee meetings. COSI prepares, on the basis of Europol's threat assessments, the political decision-making and conclusions concerning the priorities of the policy cycle for adoption by the JHA Council; it supervises the drafting of the annual Operational Action Plans (OAPs) and receives the annual evaluations of the policy cycle. In addition, Home Affairs agencies have begun to systematically report to COSI on their operational activities.[98] COSI, therefore, functions as the main clearinghouse for policy development, decision-making, policy implementation and evaluation[99] with EU Home Affairs agencies as the critical suppliers of knowledge, evidence and expertise into this policy cycle.

The expanding role of EU Home Affairs agencies and COSI has not been matched by greater engagement on the part of the European Parliament in the Internal Security Strategy and the policy cycle. Despite expectations related to Lisbon Treaty changes, the position of the European Parliament continues to be relatively marginalised and references to the Parliament are almost absent from key policy documents on the ISS. This discrepancy is highlighted by the Parliament's LIBE Committee in its report on The EU Security Strategy. Rapporteur Rita Borsellino, nevertheless, recalls that:

> 'The European Parliament is now a fully-fledged institutional actor in the field of security policies, and is therefore entitled to participate actively in determining the features and priorities of the ISS and of the EU Security Model and in evaluating those instruments.'[100]

Indeed, there are signs that the Parliament is expanding its involvement in the field of EU Internal Security. The Borsellino Report itself makes a number of robust recommendations aimed at increasing the involvement of both European and national parliaments (calling for a 'Parliamentary Policy Cycle') and underlines the importance of a transparent and sound knowledge-based analysis of security threats — signalling a warning that the growing activities of EU Home Affairs agencies may be blurring the divide between 'policy advice' and 'policymaking'. Similarly the Parliament's 2010 Alfano Report on Organised Crime in the European Union marked an important signal of the Parliament's intention to engage in this domain with its own recommendations aimed at EU agencies.[101] The report formed the basis for setting up, in March 2012, a Special European Parliament Committee on Organised Crime, Corruption and Money Laundering (CRIM). It is the object of this committee to 'study and analyse criminal activities and draw up a comprehensive and structured plan to combat them at EU level' via the organisation of public hearings and the drafting of thematic papers.[102] Its key responsibilities include:

> to analyse and evaluate the current implementation of Union legislation on organised crime, corruption and money laundering, and related policies, in order to ensure that Union law and policies are evidence-based and supported by the best available threat assessments, as well as to monitor their compatibility with fundamental rights.[103]

The CRIM Committee could, therefore, offer a potentially important platform for the democratic scrutiny of agency-generated knowledge and evidence. Indeed, the committee's mandate includes the obligation to 'examine and scrutinise the implementation of the role and activities of the Union home affairs agencies.' However, the committee was given only a short term of office (due to end in September 2013) and so far its oversight function related to EU agencies has not been explored to the extent that some may have hoped. Consequently, there have been calls for the Parliament to develop alternative, more permanent scrutiny mechanisms for EU internal security and organised crime, with scholars pointing to the lack of involvement of the European Parliament as a major deficit of the new policy cycle, which risks undermining the accountability and legitimacy of the EU's Internal Security Strategy.[104] This weakness is further exacerbated by more general accountability deficits affecting EU Home Affairs agencies. Although the Parliament currently enjoys some accountability procedures vis-à-vis EU agencies, such as Euroju st, Europol and Frontex,[105] such procedures tend to focus primarily on its role as a budgetary authority or are limited to hearings with senior agency representatives and could be broadened to include a more in-depth scrutiny or monitoring exercises on the implementation of the ISS.[106]

3. MAPPING KNOWLEDGE GENERATION AND USE ON THE PART OF AGENCIES: UNPACKING THE EVIDENCE-BASE OF THE ISS

Section 2 demonstrated the central role of 'evidence' originating from EU Home Affairs agencies in the development and implementation of the ISS. Section 3 will attempt to unpack this evidence by looking at each one of the five agencies to examine how it produces and uses 'knowledge'.

In order to capture the diverse range of ways in which EU Home Affairs agencies make use of 'evidence', expertise and information, 'knowledge' is broken down into three categories: The first category examines the extent to which each agency functions as an intelligence actor. By 'intelligence', we refer to a distinct form of knowledge that supports a proactive, as opposed to reactive, approach to crime fighting. The precise form of such intelligence differs from agency to agency — referred to variously as 'risk analysis', 'strategic analysis' or 'threat assessment' — but all forms imply the collation and processing of data and information to extract an overarching (often future-oriented) analysis that relies on the early identification of 'threats' as a strategy to prevent organised crime. Within this category we also examine the agency's activities for data and information management, through the gathering and processing of data (including statistical data) as well as information related to investigations, cases or other relevant details affecting crime trends. The second category is 'Research and Development' and groups the research tasks that agencies engage in, ranging from internal research activities by agency staff, sometimes in cooperation with Member State experts, to research and development tasks that are outsourced to external contractors. The third category examines any other activities for the production and dissemination of knowledge, in particular training and other learning-based tasks, such as the establishment of fora or networks focused on the pooling of expert knowledge or exchange of practices.

96. Council of the EU, EU Policy Cycle: Implementation Monitoring, 11246/1/12, Brussels, 19 June 2012, p. 7.

97. Decision of the Council of the EU on setting up the Standing Committee on operational cooperation on internal security, 2010/131/EU, OJ L, 52/50.

98. A. Scherrer, J. Jeandesboz and E.P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels, p. 42.

99. A. Scherrer, J. Jeandesboz and E.P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels, p. 44.

100. European Parliament, Report on the European union's Internal Security Strategy, Rapporteur: Rita Borsellino, A7-0143/2012, 24.04.2012.

101. European Parliament, Report on Organised Crime in the European Union, Rapporteur: Sonia Alfano, A7-0333/2011, 06.11.2011.

102. See the official website of the European Parliament CRIM Committee at: http://www.europarl.europa.eu/committees/en/crim/home.html#menuzone

103. Ibid.

104. Scherrer, A., J. Jeandesboz and E. P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels; M. Busuioc and D. Curtin (2011), *The EU Internal Security Strategy, the EU Policy Cycle and the Role of (AFSJ) Agencies: Promises, Perils and Pre-requisites*, Study for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament, p.15-17.

105. M. Groenleer (2009), *The Autonomy of European Union Agencies: A Comparative Study of Institutional Development*, Delft: Eburon Academic Publishers, 2009; M. Busuioc, *The Accountability of European Agencies: Legal Provisions and Ongoing Practices*, Delft: Eburon Academic Publishers, 2010; M. Busuioc, 'Accountability, control and independence: The case of European agencies', *European Law Journal*, Vol. 15, No. 5, 2009, pp. 599-615.

106. The literature already contains some interesting proposals on how the European Parliament might overcome dilemmas of democratic oversight and confidentiality when attempting to rebalance the accountability deficit in the ISS. See for instance, Scherrer, A., J. Jeandesboz and E. P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels.

Although a certain degree of overlap between these categories is inevitable, they prove helpful when identifying commonalities in the way the agencies selected, produce and use knowledge. Certain categories will be more relevant for certain agencies than others, given the wide diversity in the mandates and tasks between Europol, Frontex, Eurojust, OLAF and CEPOL and this variation is reflected in the overview below.

3.1. Europol

Europol (European Police Office) is the EU's Law Enforcement Agency Headquartered in The Hague, the Netherlands, and employing a staff of around 700 persons.[107] Europol's formal objective, as laid down in the 2009 Europol Council Decision[108] and echoed in Article 88 of the Lisbon Treaty, is to 'support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States'.

Europol has no executive powers — its mandate is primarily to act as a support service to the Member States, with its core tasks being to facilitate the exchange of information among Member States and develop criminal intelligence. In recent years it has also been granted more operational powers, the clearest manifestation being its participation (in a support and coordination role) in Joint Investigation Teams, together with Eurojust and representatives of national police forces.[109]

Due to a prevailing police culture that has been reluctant to trust and cooperate with the agency, the literature contends that Europol has, since it establishment, encountered obstacles (especially related to lack of information sharing by Member States) to performing its full functions and delivering on expectations.[110] However, the central place of Europol within the EU Policy Cycle is now expected to offer a new institutional impetus to the agency.[111] Its leading role in providing — via the SOCTA — the knowledge and evidence base underpinning the EU's ISS now gives Europol the possibility to demonstrate its added-value at EU and national law enforcement levels. The positioning of Europol in the field of cybercrime and the decision to place the European Cybercrime Centre within the agency further reflects the strong position of Europol within the ISS.[112] The so-called 'EC3', which commenced its activities on 1 January 2013, has become an integral part of Europol and, while currently lacking any legal mandate, is expected to be included in the upcoming revision of Europol's legal basis. Indeed, the forthcoming Commission proposal for a Regulation on Europol to replace the Europol Council Decision (expected in 2013) is expected to further reinforce and consolidate this agency's powers.[113]

Against this backdrop, the development and dissemination of 'knowledge' features increasingly heavily in the activities of Europol, primarily through this agency's efforts to consolidate its role as an intelligence broker but also in its efforts to establish its position as a centre of expertise for the combat and prevention of organised and serious crime.

3.1.1. Europol as an intelligence actor

During the past years, and particularly with the entry into force of the Europol Council Decision, Europol has increasingly positioned itself as a knowledge centre for strategic insight into the phenomena of organised crime in the EU. The Europol Council Decision now identifies as one of the agency's main tasks to 'prepare threat assessments, strategic analyses and general situation reports relating to its objective, including organised crime threat assessments.'[114]

The two most important strategic products are the EU Terrorism and Situation and Trend Report (TE-SAT) and the EU Organised Crime Threat Assessment (OCTA), soon to become SOCTA, which lies at the centre of the EU policy cycle and provides the basis for identifying EU crime priorities (as discussed in Section 2).

3.1.1.1. TE-SAT

The TE-SAT was established in the aftermath of the attacks of 11 September 2001, initially as a reporting mechanism from the Council's Terrorism Working Party (TWP). The TE-SAT is now produced annually by Europol and seeks to present basic facts and assemble figures regarding terrorist attacks and arrests in the European Union, compiling data on failed, foiled and completed terrorist attacks as well as arrests of terrorist suspects. The report also aims to present trends and new developments from the information available to Europol, with the report categorising terrorist groups by motivation (e.g. 'religiously motivated', 'separatist', 'right wing', etc.).[115]

According to Europol TE-SAT 2012, the content of the TE-SAT is based on information supplied by EU Member States, some third states (Colombia, Croatia, Iceland, Norway, the Russian Federation, Switzerland, Turkey, and the US) and partner organisations (Eurojust and Interpol), as well as information obtained from open sources.

Given that the TE-SAT does not seek to analyse the root causes of terrorism, nor to assess the impact or effectiveness of counterterrorism policies and law enforcement measures taken, and does not take into account the highly divergent national contexts and specificities between the Member States, the TE-SAT has been charged with over-simplifying the terrorist phenomena in Member States.[116]

3.1.1.2. OCTA

The OCTA aims to provide a picture of the threat posed by certain criminal networks and organised crime phenomena in the EU. It describes the main characteristics of criminal groups present within the EU, the extent of criminal markets and the regional dimension of organised crime. Reports are published on a bi-annual basis with Europol having released the first 'European Organised Crime Threat Assessment' (OCTA) in 2006. Prior to this, the agency had compiled annual general situation reports. However, the OCTA aimed to go beyond simply presenting an overview of national data, it rather sought to identify trends, make assessments of future threats and put forward recommendations on the prevention and control of organised crime.[117]

The OCTA addresses specific crime areas such as 'drugs' or 'trafficking in human beings', breaking down each theme into geographical 'hubs' and identifying crime networks tagged according to their nationality/ethnic origin, often accompanied by pictorial mappings of crime hubs and visual representations of the threats posed. Statements in the OCTA on criminal networks and the level of threat are limited to rather general observations, at least in the publicly available versions of the report, relying on qualitative statements with little detail or supporting empirical data or statistical information provided. The narrative of the reports is one of increasing threats of an ever more complex and transnational nature.[118]

Concerning the methodology behind the preparation of the OCTA, little detail is known, given the high level of confidentiality surrounding the process. The only indication provided by the report itself is a short acknowledgement stating:

> The EU Organised Crime Threat Assessment is the product of a systematic analysis of law enforcement information on criminal activities and groups

107. See the Europol official website at: www.europol.europa.eu

108. Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), OJ L 121/37, 15.05.2009.

109. Article 6 of the Europol Council Decision.

110. A. de Moor and G. Vermeulen (2012), 'The Europol Council Decision: 'Transforming Europol into an Agency of the European Union,' *Common Market Law Review*, 47, pp.1089-1121.

111. M. Busuioc and D. Curtin (2011), *The EU Internal Security Strategy, the EU Policy Cycle and the Role of (AFSJ) Agencies: Promises, Perils and Pre-requisites*, Study for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

112. Press release, 'An EU Cybercrime Centre to fight online criminals and protect e-consumers', IP/12/317, 28 March 2012.

113. Commission Communication on Delivering an Area of Freedom, Security and Justice for Europe's Citizens: Action Plan Implementing the Stockholm Programme, COM(2010) 171, Brussels, p. 32.

114. Article 5 of the Europol Council Decision.

115. See for instance, Europol, TE-SAT 2012: Terrorism Situation and Trend Report (available at: https://www.europol.europa.eu/sites/default/files/publications/europoltsat.pdf).

116. A. Scherrer, J. Jeandesboz and E. P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels, pp. 23-24.

117. A. de Moor and G. Vermeulen (2012), 'The Europol Council Decision: 'Transforming Europol into an Agency of the European Union,' *Common Market Law Review*, 47, pp.1089-1121.

118. For an extensive analysis of Europol's OCTA, see J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

> affecting the EU... It has been produced by strategic analysts in Europol's Analysis and Knowledge Unit (02), drawing on extensive contributions from the organisation's analysis work files (AWF), SCAN team and external partners...[119]

Nevertheless, a body of research has examined the content of the OCTA reports and methodological approach underpinning them. For instance, Carrapico and Trauner find that the OCTA's methodology leaves significant scope for independent assessment by Europol. Although the general methodological approach has been jointly agreed on between Europol and the Member States, once data and information have been gathered from the Member States and the national reports have been complemented with information from the Europol Analysis Work Files, Europol Information System and contributions from other actors (such as Frontex and Europol), then Europol alone is responsible for the interpretation of that information. Ultimately, the agency has substantial responsibility to pinpoint the areas, activities or populations which represent the greatest threats and which should be given priority in the fight against crime.[120]

Other academics have focused on the scientific rigour of the method for determining crime threats in Europe, raising serious questions over the quality of the methodological approach (see section 4 of this paper). However, somewhat surprisingly, an extensive evaluation commissioned by Europol's Management Board and carried out by the Consultancy firm RAND Europe makes no mention of the OCTA methodology or the quality of Europol's strategic analysis products. This seems a stark omission given the range of criticism levelled at the OCTA by external researchers. Whether these have been taken into account in Europol's recent efforts to devise a revised methodology for a Serious and Organised Crime Threat Assessment (SOCTA) as part of the new EU policy cycle for serious and organised crime is not yet clear.

3.1.1.3. SOCTA

The new methodology for SOCTA was presented to COSI for validation in mid-2012.[121] The methodology was elaborated by Europol with the involvement of an expert group from Member States and EU agencies[122] and claims a number of improvements compared to the OCTA, including a broader range of indicators and the addition of new 'crime relevant factors' to be included in the analysis. However, the information provided continues to be rather general in nature and it remains to be seen to what extent the new SOCTA, to be released for the first time in 2013, will represent a divergence from the OCTA. Needless to say, the methodology that will ultimately be developed will prove critical to the effectiveness and credibility of the policy cycle. Sheptycki, Ben Jaffel and Bigo have suggested that should the SOCTA incorporate a wider group of expert participants in a deeper level of analysis, this would help Europol and OCTA gain legitimacy and efficiency, overcoming criticism related to an overdependence on the police sector and insider knowledge, and allowing the incorporation of other kinds of expertise and experience that could improve analytical rigour.[123] However, it appears that Europol have chosen not to take this route. Under the heading 'Limitations' in the Council document setting out the new SOCTA methodology, the distinction between 'intelligence' and 'scientific research' is clearly stated:

> Intelligence analysis is different from scientific research. In the latter the principal aim is to acquire knowledge on a chosen subject. With intelligence analysis the objective is to facilitate effective interventions. Here the aim is to find out what has happened, is happening now or could happen in the future. This has a bearing on the recognition and interpretation of indicators for specific situations

119. Europol, *OCTA 2011: EU Organised Crime Threat Assessment*.

120. H. Carrapico and F. Trauner (2012), *Europol's contribution to a European Union strategy on organised crime: exploring the potential of experimentalist governance*, Paper presented at the UACES conference Passau, 3-5 September.

121. Council of the EU, Serious and Organised Crime Threat Assessment (SOCTA) – Methodology, 12159/12, Brussels, 4 July 2012.

122. Draft Council conclusions on the creation and implementation of an EU policy cycle for organised and serious international crime, 15358/10, Brussels, 25 October 2010.

123. J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

> and developments. There are other differences which set analysis apart from research, such as the need for speed, secrecy and professional trust.[124]

3.1.1.4. Data and information management

One of Europol's principal tasks is to collect, store, process, analyse and exchange information and intelligence between Member States. However, neither for operational nor for strategic analysis, does Europol systematically collect data. Rather, Europol relies on the competent authorities of the Member States to provide data (on a voluntary basis) via their respective Europol National Units (which function as the liaison bodies between Europol and the Member States).[125]

To store and process this data, Europol possesses two core information systems: a Europol Information System (EIS) and Analysis Work Files (AWF). The former is a platform to store personal information on persons suspected or convicted of crimes for which Europol is competent. The latter stores a wider set of data perceived as necessary to provide operational analysis to aid investigations and operations carried out by the Member States.

Thus, AWFs process data not only on suspects but also on their contacts, associates, victims, witnesses and informants. In addition to their operational support function, AWFs also play a key role in feeding Europol's strategic analyses which result in the OCTA/SOCTA. Currently Europol has 23 AFW projects divided between two databases (a database on counterterrorism and a database on serious and organised crime). The decision to compact what was previously 23 databases into just two, reflects an attempt by Europol to establish greater linkages between analysis projects and crimes, and an attempt to build a more complete picture of the EU crime phenomena.

Although, the EIS sits at the core of Europol's activities, its functioning has been marred by the reluctance of Member States to feed the system. Certain Member States have proved more diligent than others at entering data, and lack of trust between Member States law enforcement authorities has led to unwillingness to share all relevant information with Europol. In addition, a large proportion of information is exchanged on a bilateral basis between national liaison officers, sidestepping, therefore, Europol's information processing procedures and creating deficiencies in the agency's analysis of wider crime trends.[126] Indeed, Europol itself has conceded that the lack of consistency in the way Member States share information results in 'intelligence gaps' and can lead to a distorted view of the crime picture in the EU.[127]

Europol's reliance on Member States concerns not only the quantity but also the quality of data received. Article 8(4)(d) of the Europol Council Decision entrusts the Europol National Units with the task of evaluating information and intelligence in accordance with national law. Occasionally, Open Source data is sent to Member States for confirmation but on the whole; Europol is not in a position to assess the validity and reliability of Member States' data.

In addition, Europol screens and collects Open Source Intelligence and draws on access to several public commercial databases which also feed into the agency's strategic or operational products. Europol has also stepped up efforts to gather data from private bodies in line with recent trends in police cooperation where the use of data collected by private companies for law enforcement purposes has steadily become more and more important. The Europol Council Decision (Article 25) provided the agency with the legal basis to receive and process data from private persons and bodies, such as universities, banks or insurance companies, both from Member States and third countries. De Moor and Vermeulen, among others, have highlighted concerns regarding this development, not least linked to the accuracy of data from private parties:

124. Council of the EU, Serious and Organised Crime Threat Assessment (SOCTA) – Methodology, 12159/12, Brussels, 4 July 2012, p. 6.

125. A. De Moor and G. Vermeulen (2012), 'The Europol Council Decision: Transforming Europol into an Agency of the European Union,' *Common Market Law Review*, 47, pp.1089-1121.

126. Disley et al. (2012), *Evaluation of the Implementation of the Europol Council Decision and of Europol's Activities*, RAND Technical Report, prepared for the Europol Management Board, p.49.

127. Ibid., p. 48.

> The nature of information and intelligence from private partners – often collected in a commercial environment for commercial purposes – requires additional safeguards, in order to ensure the accuracy of this information... the development of new partnerships must not occur at the expense of its own law enforcement professionalism.[128]

Despite these doubts, Europol has signalled its intention in its Work Programme for 2013 to step up partnership with private parties: 'In 2013 the outreach activities will focus on establishing long-term strategic partnerships with the private sector ... the input from non-law enforcement actors will add great value and complete the intelligence picture in the concerned crime areas.'[129]

3.1.2. Research and development activities

Research is mentioned in Article 5.4 of the Europol Council Decision which states that Europol may 'in accordance with the staffing and budgetary resources at its disposal and within the limits set by the Management Board, assist Member States through support, advice and research.' Examples cited include training exercises and 'crime prevention methods'.

As suggested by the tentative wording of this provision, research plays a more limited role within Europol than it does in certain other EU Home Affairs agencies, such as Frontex or CEPOL. There is no special unit devoted to R&D within Europol and no separate research and development budget. Nevertheless, Europol is clearly investing efforts in pioneering new techniques to prevent and combat serious cross border crime and terrorism via projects that it undertakes in collaboration with Member States as well as third countries.

For instance, Europol has begun, following a meeting between Europol and the DHS in late 2011, to work on a joint project with the US Department of Homeland Security (DHS) on 'countering violent extremism' which will see the two agencies and authorities from Member States sharing 'information on case studies, focusing on suspicious behaviour and other indicators, and develop best practices to counter terrorist radicalisation.'[130]

Although the majority of research collaborations appear to take place between Europol and members of national competent authorities or professional experts, there is some evidence of cooperation with the academic community. For instance, the 2011 Europol activity report refers to collaboration with Christ Church University in Canterbury, UK to research and compile national practices on homicide investigations, with a view to potentially producing a European manual on the subject. Europol is also engaging with experts in academia to give advice on the application of the new SOCTA methodology.

An additional example of Europol's activity in the research domain is the 'expert input' the agency delivers as member of the Security Advisory Board for the European Commission's 7th Framework Programme in which it advises on the prioritisation of research topics for the Work Programme in the area of Security. It has also recently increased its involvement by becoming part of the Expert Group which decides on incoming applications for Security Calls.[131]

The agency has signalled its intention to strengthen its role in research and development citing the aim 'to develop a research and development capacity with external partners'[132] and this is reiterated in the latest Europol Work Programme for 2013.[133]

3.1.3. Other activities for knowledge production and dissemination

Europol is also actively strengthening its position as a platform for knowledge exchange and law enforcement expertise through additional activities, such as hosting

128. A. de Moor and G. Vermeulen (2012), 'The Europol Council Decision: Transforming Europol into an Agency of the European Union," *Common Market Law Review*, 47, p. 1108.

129. Europol, Work Programme 2013.

130. Europol, *Europol Review – General Report on Europol's Activities 2011.*

131. Europol, *Europol Work Programme 2012.*

132. Council doc. 6517/10, *Europol Strategy 2010-2014*, Brussels, 22 February 2010

133. Council doc. 12667/12, *Europol Work Programme 2013*, Brussels, 17 July 2012.

working groups and contributing to trainings, which result in soft policy tools such as handbooks, guidelines and manuals.

Europol has established a variety of networks, working groups and task forces which aim at sharing best practices and developing and disseminating standards.[134] One of the most recent initiatives followed the Norwegian terrorist attacks of 2011, in the aftermath of which Europol created a Task Force on Violent Extremism made up of experts from EU Member States tasked with researching and reporting on new initiatives to counter violent extremism as well as developing an online portal for the 'exchange of best practice, analysis and assessments'.

Europol also delivers a number of trainings, for instance on strategic analysis (the tools and methods necessary to produce strategic analysis products) or technical trainings on specific crime areas (e.g. on dismantling drug laboratories, investigating currency counterfeiting). In cooperation with CEPOL, Europol delivers around 10 training events each year focused on serious and organised crime.[135]

In addition, Europol hosts the European Cybercrime Training and Education Group (ECTEG), an official ad hoc sub group within Europol that was founded in 2007 to provide experience and knowledge to enhance the coordination of cybercrime training.[136] Over the past years ECTEG has developed, piloted, delivered and distributed 14 accredited cybercrime investigation training modules to police officers throughout the EU. In addition, ECTEG has provided trainers and its training material to INTERPOL and the OSCE to deliver its cybercrime investigation training outside the EU Member States.

3.2. Frontex

Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, was established in 2004 as a 'first pillar' agency tasked with coordinating and assisting Member States' actions in the surveillance and control of the external borders of the EU.[137] The agency which is headquartered in Warsaw, Poland, has experienced dynamic growth since its creation. Staff numbers have risen from 43 to 300 since 2005, while the agency's budget has increased from EUR 6 million in 2005 to EUR 86 million in 2011.[138]

As its main tasks, Frontex coordinates Joint Operations (essentially the deployment of increased border officials and experts to areas of the EU external border that are under increased pressure), supports Member States in the return of irregular migrants to their countries of origin (so-called Joint Return Operations), and acts as an intelligence body, gathering information on the situation at the external borders (and further afield) and compiling risk assessments. Furthermore, a modification to its legal framework in 2007 established the possibility for the agency to coordinate Rapid Border Intervention Teams (RABITs), a pool of border guard officials drawn from participating Member States and deployed 'to a requesting Member State facing a situation of urgent and exceptional pressure, especially the arrival at points of the external borders of large numbers of third country nationals.'[139] The new legal mandate for Frontex, adopted in 2011, represents the most recent step in the continuing expansion of the agency's powers and activities, strengthening Frontex capacities in a number of areas including the ownership of technical equipment, data processing and according the agency a co-leading role in joint operations.[140]

Yet, despite the strengthening of its mandate, Frontex continues to be framed as a primarily technical body, charged with operational coordination but without direct operational powers, which remain firmly within the competence of the Member States. This limitation of the agency's powers has led commentators, such as Pollack and Slominski, to observe that Frontex's most important resources 'are not its legal powers or

134. Europol, *Europol Review – General Report on Europol's Activities 2011*, pp. 32-34.

135. Disley et al. (2012), *Evaluation of the Implementation of the Europol Council Decision and of Europol's Activities*, RAND Technical Report, prepared for the Europol Management Board.

136. See the ECTEG website at: www.ecteg.eu

137. Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ L 349/1, 25.11.2004.

138. Council of the EU, 'Strengthening the European external borders agency Frontex – Political Agreement between Council and Parliament', 11916/11, Presse 192, Brussels, 23 June 2011.

139. Article

140. Council and Parliament Regulation (EU) No 1168/2011 of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ L 304/1, 22.11.2011.

financial means but information and knowledge, which in turn serve as the basis for cooperation, coordination and persuasion.'[141]

3.2.1. Frontex as an intelligence actor

Risk analysis sits at the core of Frontex and, according to the official Frontex website, forms the basis for the whole range of the agency's activities, from joint operation through to training and research.[142]

The Frontex Regulation stipulates that Frontex 'shall develop and apply a common integrated risk analysis model'.[143] On the basis of this model, Frontex is required to prepare both general and tailored risk analyses which it feeds into the process of adopting appropriate border management measures.[144] Risk analyses are published on a quarterly, annual and bi-annual basis and have either a general, pan-EU scope or are targeted to specific geographical regions. Risk analyses are additionally divided into public or restricted versions, depending on the sensitivity/ confidentiality of the data contained in them.

Box 1. Key Frontex Risk Analysis Products

Frontex Annual Risk Analysis Report
Frontex Semi-Annual Risk Analysis report
Frontex Risk Analysis Quarterly report
Western Balkan Annual Risk Analysis
Western Balkan Quarterly report
Eastern Borders Annual Risk Analysis
European Document Fraud Annual Risk Analysis
Weekly Monitor on North Africa and the Near East

As with Europol's intelligence products, the Frontex risk analysis reflects a future-oriented, proactive and prevention approach to security threats facing the EU:

> Analytical work is more than the identification of risks. It is about maximising effectiveness in preventing cross-border crime — particularly human trafficking and smuggling — and ensuring the security of the EU's external borders by predicting future trends and proposing remedies.[145]

Risk analyses are based on both qualitative and quantitative data gathered from a range of sources including border authorities of Member States and non-EU countries; EU level institutions and agencies (including Europol, and the European Commission – Eurostat), other international organisations and open source data (including academic publications, studies and media reports). However, the principal contributors are the Frontex Risk Analysis Network (FRAN) established by Frontex in 2007 as a key means to gather statistical data and information from Member States' national authorities. The backbones of the Annual Risk Analysis are the monthly statistics provided by Member States within the framework of the FRAN.

> In addition, in its effort to provide an up-to-date picture of the situation at the external borders, Frontex also performs situation and crisis monitoring and delivers early alerts and situation reports to 'internal and external customers'.

In terms of their application, Frontex risk analyses have a range of direct implications on Frontex activities. Intelligence concerning the numbers and nationalities of migrants, migration routes and smuggling networks are fed directly into the planning and launch of Joint Operations and RABITs.[146] They also underpin the planning of other (non-operational) activities, such as training or research and development, and as such prove to be key in determining priorities in the Frontex annual work programmes. Critically, the Frontex ARA has previously served as one of the three main strategic documents (together with the OCTA and the TE-SAT) in which threats have been identified within the ISS and will contribute to the SOCTA in the future.

3.2.1.1. Data and information management

Frontex has established a number of mechanisms in order to draw on various information sources and data. The base data collection instrument, launched in 2007, is the Frontex Risk Analysis Network (FRAN) through which it receives monthly updates and statistics from the Member States. Statistics focus on six indicators of irregular migration: 1) detections of irregular border crossing; 2) refusals of entry; 3) detections of irregular stay; 4) asylum applications; 5) detection of facilitators; and 6) detections of forged documents.[147] A form of consolidation and quality check of this data is enacted via the organisation of an Annual Analytical Review whereby members of the FRAN participate in a one-day exercise aimed at sharing knowledge on likely risks to the EU border in the years ahead. Participants are then given one week to consult with colleagues at the national level to provide additional comments and rank the risks identified.[148]

Frontex also has access, and is a contributor to, ICO-Net, a web-based information and coordination network for national migration authorities.[149] Statistics on returns were added as a seventh indicator of the regular data collection exercise as of 2011.[150]

The fact that Frontex took over, in 2010, the work of CIREFI (Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration), a Council working group that collected statistics and facilitated information exchange between Member States on irregular immigration,[151] has cemented Frontex's authority as a source of data on irregular migration 'threats' at the EU's external border.

Frontex also makes use of open sources of information 'especially in identifying the main push and pull factors for irregular migration to the EU.' These include reports issues by government agencies, international or non-governmental organisations as well as official EU reports and mainstream news agencies. With regard to the latter, Frontex has developed a Real-time News Event Extraction Framework as a news-mining tool to extract information from online news sources.[152]

However, as with Europol's OCTA, doubt has been cast on the accuracy of Frontex's data collection and processing mechanisms and on the way in which these are used for risk analysis and priority setting purposes.[153] The fact that these doubts are not shared by the agency itself is indicated by Frontex's explanation of the symbol adopted on its risk analysis publications:

> The triangle is a symbol of ideal proportions and knowledge, reflecting the pursuit of factual exactness, truth and exhaustive analysis. The dot at the centre represents the intelligence factor and the focal point where information from diverse sources converges to be processed, systematised and shared as analytical products. Thus Frontex risk analysis is meant to be at the centre and to form a reliable basis for its operational activities.

The logo, therefore, captures quite succinctly how Frontex perceives its intelligence role, as recipient of a wide range of diverse data sources which it processes, (via a rather opaque methodology), into a new and unchallengeable 'truth'.

141. J. Pollack and P. Slominski (2009), 'Experimentalist but not accountable governance? The role of Frontex in managing the EU's external borders', *West European Politics*, Vol. 32, No. 5, pp. 904 – 924.

142. See also House of Lords, (2008) *Frontex: the EU external Borders Agency – Report with Evidence.*

143. Frontex Regulation, Recital 6.

144. Frontex Regulation, Article 4.

145. See the official Frontex website: www.frontex.europa.eu/intelligence/risk-analysis

146. Frontex Regulation, Article 8d(3).

147. Council of the European Union, New JHA Working Structures: Abolition of CIREFI and transfer of its activities to Frontex and the Working Party on Frontiers, 6504/10, Brussels, 22 February 2010.

148. Frontex, Annual Risk Analysis 2012, p. 8.

149. European Commission, "Reinforcing the fight against illegal immigration – Secure web-based network for the coordination and exchange of information on irregular migration", Press Release IP/06/57, Brussels, 20 January 2006.

150. Frontex, Annual Risk Analysis 2012, p. 7.

151. See the description on the European Commission website, 'Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (Cirefi)': (http://europa.eu/legislation_summaries/other/l33100_en.htm). See also Council of the European Union, Conclusions on the organisation and development of the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (Cirefi), Brussels, 30 November 1994.

152. M. Atkinson and J. Piskorski (2011), 'Frontex real-time News Event Extraction Framework' *Proceedings of the 17th ACM SIGKDD international conference on Knowledge discovery and data mining*, pp. 749-752.

153. S. Carrera and E. Guild (2010) 'Joint Operation RABIT 2010' – FRONTEX Assistance to Greece's Border with Turkey: Revealing the Deficiencies of Europe's Dublin Asylum System' *CEPS Liberty and Security Series*, November 2010.

3.2.2. Research and development activities

Of the five EU Home Affairs agencies studied here, Frontex has been most active in developing the research and development dimension of its activities. Frontex boasts an expanding Research and Development Unit (RDU) which has grown from two staff members in 2007 to 16 staff members in 2012, supported by a large annual research and development budget exceeding EUR 2.5 million in 2011.[154]

The research function of Frontex has, since its inception, been laid down in its founding Regulation and was reinforced and strengthened by the 2011 revision to the Frontex Regulation which now stipulates that Frontex 'shall proactively monitor and contribute to the developments in research relevant to the control and surveillance of the external borders and disseminate that information to the Commission and the Member States.'

The objectives of the R&D Unit are listed next:[155]

1. to drive the process of harmonisation and development of standards, both technical and operational, for border control;
2. to provide for adequate representation of the common interests of the Member States in European border security research;
3. to keep Member States informed concerning new technical/technological developments in the field of border control.

To implement these objectives, the unit produces guidelines and commissions external studies to assess the value of new technology and to help establish priorities for the development of future capabilities for European border security. The main research and development products of the Frontex RDU include studies and reports, as well as so-called 'Best Practice Guidelines' and toolkits. As indicated in Table 1, Frontex both conducts its own internal research (sometimes carried out in collaboration with members of national authorities' border services), and commissions studies or reports to external experts or academics.

Citing the words of Pollack and Slominski, Research and Development allow Frontex to 'experiment with new solutions to certain problems, some of them not even known yet.'[156] The uncertainty surrounding how precisely to put into operation an Integrated Border Management has left Frontex with considerable scope to experiment with solutions, including through analysis, research and pilot projects.

A prime example of this has been Frontex's use of research to respond to the high profile problem of how to secure the EU's southern border with a maritime patrol network operating within a European border surveillance system. Work began with the 2006 MEDSEA study, which examined the feasibility of a Mediterranean coastal patrol network and its follow up study, BORTEC, which focused on the related challenge of establishing a surveillance system covering the entire southern maritime border of the EU.[157] The result has been the development of a European Patrols Network and a Commission proposal for the establishment of a European Border Surveillance System (EUROSUR) which assigns a base, coordinating role to the Frontex agency.[158]

154. Response to questionnaire.

155. Frontex, *Multi Annual Plan 2010-2013.*

156. J. Pollack and P. Slominski (2009), 'Experimentalist but not accountable governance? The role of Frontex in managing the EU's external borders', *West European Politics*, Vol. 32, No. 5, pp. 904 – 924.

157. Frontex (2010), *Beyond the Frontiers: Frontex, the first five years*, Warsaw.

158. Proposal for a Regulation Establishing the European Border Surveillance System (EUROSUR), COM(2011) 873, Brussels, 12.12.2011.

Table 1. Guidelines and studies produced by the Frontex RDU[159]

Title	Year of publication	Authoring organisation
Anti-corruption measures in EU border control	2011	Centre for the Study of Democracy
Futures of Borders	2011	Liron System Ltd
Operational and Technical security of Electronic Passports	2011	Frontex RDU
Best Practice Guidelines on the Design, Deployment and Operation of Automated Border Crossing Systems	2011	Frontex RDU
BIOPASS II Automated biometric border crossing systems based on electronic passports and facial recognition: RAPID and SmartGate	2010	Frontex RDU in collaboration with the EU Joint Research Centre
Ethics of border control	2010	University of Birmingham
SeBoCom Pre-Study: A preliminary study on Secure Border Communications	2008	Frontex RDU in collaboration with the Ministry of the Interior of Slovenia and the EU Joint Research Centre
BIOPASS – Study on Automated Border Crossing systems for Registered Passengers at Four European Airports	2007	Frontex RDU in collaboration with the EU Joint Research Centre

Frontex has also, via its research and development unit, carved out a prominent role in EU research funding. It enjoys strong links with the European Security Research and Innovation Forum, participates in the evaluation of research project proposals and is represented in end-user advisory boards of research projects where it is able to exert an influence over project development. For instance, Frontex chaired the end-user advisory board of an EU-funded project which developed border control 'robots' — autonomous land vehicles designed to detect and pursue irregular migrants.[160] As the agency itself notes, 'after five years Frontex has managed to reach a critical position from which it can influence EU security research in the area of border security.'[161]

3.2.3. Other activities for knowledge production and dissemination

Aside from the above-described activities, Frontex has also overseen a growing role in fostering the harmonisation of border guard education and training at EU level.

Frontex is tasked with establishing common training standards and providing them for joint training activities.[162] It provides both training at European level for national-level border-guard trainers (multiplier effect) as well as offering any additional training courses and seminars on the control and surveillance of external borders and the return of third-country nationals. For this purpose, a Frontex Training Unit (established in 2005) and a network of national training institutions offer their training capacity to Frontex in order to deliver joint trainings at their sites.

The Common Core Curriculum developed by Frontex was launched in 2007 and represents the first standardised set of skills and knowledge criteria for basic-level border-guard training in the EU. It was devised in cooperation with representatives of the Member States 'to bring together best practices and shared goals and values from across Europe.' The CCC includes modules representing the full range of border-related topics from detection of false documents and stolen cars to human rights, international law and leadership,[163] and is relatively detailed in terms of its content. Thus the chapter 'Crime Investigation' in the 'General' section, which all border guards are supposed to study, is made up of sub-sections including topics such as 'Definition of motive' and 'Criminal signs in border crimes'.[164]

159. Information taken from the Frontex website: www.frontex.europa.eu

160. N. Nielsen, *EU-funded consortium unveils border-control robot*, EU Observer, 10th April 2012; See also the official project website at: http://talos-border.eu/.

161. Frontex (2010), *Beyond the Frontiers: Frontex, the first five years*, Warsaw, p. 53.

162. Article 5 of the Frontex Regulation.

163. See the Frontex website: http://www.frontex.europa.eu/training/curricula

164. Frontex, *Common Core Curriculum*, p. 16.

Although Frontex has been careful to ensure that the process of putting together the Common Core Curriculum draws on a range of views and knowledge, including that of non-Member State representatives, such as the International Organisation for Migration (IOM) and the UNHCR and academic experts, nevertheless, the fact that certain Member States such as the UK are more active contributors than others offers a channel by which Member States can export and upload their knowledge and techniques to a EU level training context.[165]

By 2011, all EU Member States, Schengen Associated Countries and a few third countries had integrated common training standards into their national training structures and participated in joint training activities.[166] However, the precise impact of these training activities is difficult to ascertain. Horii draws attention to the gap between Frontex training and the lack of evidence as to its outcomes. She highlights the inadequacy of Frontex's reliance on participant feedback to assess the extent to which knowledge and skills learned through the common training has improved the way border guards conduct their work, whether border guards are more aware of the human rights dimension of irregular migration for instance, and the lack of indicators to collect this data (including the difficulty of gathering evaluations of migrants as to the level of service they receive from border guards).[167]

3.3. Eurojust

Eurojust is the EU agency responsible for judicial cooperation in criminal matters. Established by Council Decision in 2002 and headquartered in the Hague, the Netherlands with a staff of around 300,[168] its principal task is to support and improve the coordination of investigations and prosecutions among the competent judicial authorities of the EU Member States when they deal with serious cross-border and organised crime.

The agency is made up of 27 national members, one from each Member State, usually senior judges, prosecutors or police officers, who hold a permanent seat in the Hague and form the College of Eurojust. The agency has no real investigative or prosecutorial powers. It exists essentially to broker cooperation among national authorities. Thus its principal task is to improve the coordination of investigations and prosecutions between national authorities in the Member States and to improve cooperation between those authorities, including by facilitating the execution of mutual legal assistance and extradition requests.[169]

Eurojust may request the authorities of a Member State to undertake an investigation or prosecution, coordinate between the competent authorities of a member state and set up so-called Joint Investigation Teams. Since its establishment, Eurojust has been involved in a considerable number of cases concerning terrorism, human trafficking, drug trafficking and money laundering.

In 2009, Eurojust saw a significant revision of its legal basis in order to enhance its operational effectiveness. On the basis of the 2009 Eurojust Decision, Eurojust can now conduct investigations and prosecutions of criminal behaviour constituting serious organised crime, and concerning two or more Member States.[170]

Concerning Eurojust's place within the ISS, Eurojust contributes, from its specific standpoint, to Europol's SOCTA, TE-SAT and to the EU policy cycle more generally via regular, ad hoc contributions. In turn, the results of the priority-setting processes (Operational Action Plans) are then integrated in Eurojust's casework priorities, with Eurojust's work priorities adopted annually 'in light of the Council's assessments of crime threats to EU citizens'.[171]

Similar to the other EU Home Affairs agencies examined here, and under the impetus of its role within the framework of the ISS, Eurojust is actively working to frame itself as a 'Centre of Expertise':

> Eurojust is developing a centre of expertise concept to facilitate effective judicial action against organised cross border crime in the European Union by serving as a repository of institutional knowledge and experience in the area of judicial cooperation in criminal matters.[172]

3.3.1. Eurojust as an intelligence actor

An intelligence approach has traditionally been less developed in Eurojust than in other EU agencies, such as Europol and Frontex. This is partly, as Busuioc and Curtin have noted, because the organisational structure of Eurojust, with its College composed of 27 national members, has not facilitated strategy development nor a proactive (rather than reactive) approach to cross-border crime.[173] However, a turn towards intelligence-led policing has been noted in Eurojust's activities, with the agency having gradually established its analysis capacities.[174] Furthermore, Eurojust has signalled its intention to strengthen the intelligence aspect of its work in its Multi-Annual Strategic Plan of 2012 – 2014, hinting at activities that would serve to complement Europol's OCTA and TE-SAT. It, therefore, sets as a key objective to:

> Enhance crime type analysis by identifying trends in line with the Organised Crime Threat Assessment (OCTA) and EU Terrorism Situation and Trend Report (TE-SAT) priorities.[175]

So far, this approach has been most evident in the activities of the Eurojust Counterterrorism Team which was created in the aftermath of the Madrid 2004 bombing attack and which has been strongly promoting a proactive approach. The team has been active in efforts to become a counterterrorism 'centre of expertise' by identifying risks, trends and best practices. According to Coolsaet, 'its aim is to evolve from a purely retroactive coordination to a (more) proactive one.'[176] For instance, the Counterterrorism Team holds regular tactical level meetings with Member States in which Eurojust representatives push such Member States towards sharing best practices regarding their own national counterterrorism experiences with different kinds of terrorist groups, and mapping potential linkages between these nationally-based terrorist groups.[177] Examples include a tactical meeting on 'Violent single issue extremism/terrorism' which took place in April 2011 and an annual strategic meeting of all Eurojust national correspondents for terrorism matters in July 2012 which 'examined the results of a questionnaire provided by EU judicial authorities on the use of the internet by Islamist extremists, and worked on case analyses.'[178]

The Counterterrorism Team is responsible for producing the Terrorist Conviction Monitor (TCM), a report based on information received from Eurojust's national correspondents for terrorism under Council Decision 2005/671/JHA of 20 December 2005 as well as through open sources. Eurojust issued three editions of its TCM in 2011. The TCM identifies cases of general EU interest in matters of terrorism and best practices through judicial case analyses, and disseminates information on legislative developments in this field.[179] Michele Coninsx, current President of Eurojust, and former Chair of the Counterterrorism Team, has stated that Eurojust's Terrorist Convictions Monitor 'goes far beyond the information available in the TE-SAT reports in that it provides detailed judicial analyses of terrorism related criminal investigations and judgements'.[180] The reports are only available to judicial authorities upon request.

165. S. Horii, 'It is more than just about training: The effect of Frontex border guard training', Paper presented at the UACES Conference, Passau, 3-5 September 2012.

166. Frontex, *Frontex General Report* 2010, p. 27; Frontex, *Frontex Programme of Work* 2012, p. 95.

167. S. Horii, 'It is more than just about training: The effect of Frontex border guard training', Paper presented at the UACES Conference, Passau, 3-5 September 2012.

168. Eurojust, *Annual Report 2011*.

169. For more information see P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels; A. Serzysko (2011), 'Eurojust and the European Judicial Network on a new legal basis,' *ERA Forum*, Vol. 11, pp. 585 – 600.

170. Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 138/14.

171. Eurojust, *Annual Report 2011*.

172. Eurojust, *Annual Report 2011*, p.64. See also *Eurojust's Multi-Annual Strategic Plan 2012 – 2014.*

173. M. Busuioc and D. Curtin (2011), *The EU Internal Security Strategy, the EU policy cycle and the role of (AFSJ) agencies: Promise, perils and pre-requisites'*, Study prepared for the LIBE Committee of the European Parliament, p. 17.

174. See for instance, P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels.

175. *Eurojust's Multi-Annual Strategic Plan 2012 – 2014*, p. 7.

176. Rik Coolsaet (2010), 'EU Counterterrorism strategy: Value-added or chimera?' *International Affairs*, Vol. 86, No. 4, pp. 58-9.

177. O. Bures (2010), 'Eurojust's Fledgling Counterterrorism Role', *Journal of Contemporary European Research*, Vol. 6, No. 2, pp. 236-256. Brues cites as an example a tactical meeting which brought together 19 Member States and Europol to discuss an ethno-nationalist separatist terrorist group in 2007.

178. Eurojust, *Annual Report 2011*, p. 30.

179. Eurojust, *Annual Report 2011*, p. 30.

180. Interview with Michele Coninsx, Chair of the Counterterrorism Team of Eurojust, in 2009, cited in O. Bures (2010), 'Eurojust's Fledgling Counterterrorism Role', *Journal of Contemporary European Research*, Vol. 6, No. 2, p. 245.

Aside from intelligence activities related to terrorism, Eurojust engages in other forms of crime analysis — largely performed by the Case Analysis Unit, which processes information received from the 27 national authorities and drafts statistical reports and strategic analysis reports based on the data entered in the Case Management System (CMS). The in-depth, case-by-case cross-referencing analysis capacities of the CMS, as well as the recruiting of more analysts in past years, have enabled Eurojust to enhance its strategic analysis capacities.

As part of the turn towards an intelligence approach, Eurojust has made a number of efforts to identify crime areas which it considers strategic, the idea being to 'single out a certain type of crime and to discuss the specificities of investigating and prosecuting issues, relevant best practices and to create informal contacts among responsible officials.'[181] Such strategic meetings have been held not only on terrorism (as mentioned above) but also on trafficking in human beings and the European Arrest Warrant. This includes coordinating the drafting of strategic analysis on key areas of casework.

Concerning the practical and policy-related application of Eurojust's strategic analyses, this information feeds directly into operational activities such as Joint Investigation Teams. Eurojust also contributes information to Europol's OCTA (soon to be SOCTA). Since 2006 it also contributes to Europol's TE-SAT report by providing data on judgements, appeals, types of terrorist activity and profiles of convicted terrorists.[182]

Janey argues that Eurojust's tandem work with Europol, as well as developments at national level, have worked as underlying factors which have helped to cement the turn towards intelligence activities:

> The intelligence-led rationale to which Member States clearly subscribed to in the post 9-11 security environment redirected prosecutors towards the police, and to being more involved in police investigations. This proactive role of authorities involved in prosecuting crime, involving investigation into patterns of organised crime, is a trend which affects Eurojust's work and to which it seems to be aligning itself.[183]

3.3.1.1. Data and information management

Data is of vital importance to Eurojust's casework. Data on criminal cross-border cases is collected from national authorities for both operational purposes but also on the strategic level, where data is collected for the purpose of studying recurrent judicial cooperation problems, criminal trends and to identify best practices.[184] The most important source of Eurojust data and information are Member State national authorities (and to a lesser extent the results of Europol's analyses).

However, as with other agencies examined here, Eurojust has encountered significant obstacles to the systematic collection of data from the Member States. A 2007 survey among all national members showed that a vast majority have casework which is not registered in Eurojust's Case Management System, and almost two-thirds do not have statistics on this unregistered casework. In addition, very few Member States were found to provide Eurojust with data concerning terrorist offences, despite their obligations laid down in the Council Decision of 2005 adopted explicitly for this purpose.[185]

It is expected that the amendments to the 2009 Eurojust Decision may help to resolve the inadequate flow of information between the Member States and Eurojust. Particularly as Article 13 of the Eurojust Council Decision now obliges Member States to systematically transmit information to Eurojust and in doing so to transmit information via a streamlined template.[186] It has been suggested from various quarters that

181. P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels, p. 63.

182. O. Bures (2010), 'Eurojust's Fledgling Counterterrorism Role', *Journal of Contemporary European Research*, Vol. 6, No. 2, p. 245.

183. P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels, p. 95.

184. Responses to questionnaire.

185. O. Bures (2010), 'Eurojust's Fledgling Counterterrorism Role', *Journal of Contemporary European Research*, Vol. 6, No. 2, pp. 242; Eurojust, *Annual Report 2008.*

186. Article 13, paragraph 11 of the 2009 Eurojust Council Decision.

this amendment, which allows Eurojust to impose a clear obligation on Member States to systematically transmit information under defined criteria and to define exactly what data is transmitted, will have far reaching consequences for Eurojust's activities, including for its analytical capacities.[187] It would provide the agency with the grounds to take its work further by identifying serious cross-border criminal phenomena and preparing strategic reports on given crime areas. As Janey notes:[188]

> The 2008 Decision, when fully implemented, will move Eurojust into a position whereby it will possess a sufficient amount of information to be able to filter incoming data and find connections, and thus to take the initiative with regard to cases... Emphasis could shift to Eurojust's qualitative input by generating its own cases through analytical work conducted on the basis of the information it is now receiving... All this will entail a major shift from a reactive to proactive style of working.

3.3.2. Research and development activities

While research is not specifically mentioned within the tasks and objectives set by the Eurojust Council Decision, Eurojust officials, nevertheless, view research as 'essential' for the agency's development and daily activities.[189] There is no unit specifically charged with research tasks, but rather research related activities are spread across several different units, including the Information Management Unit which has managed research projects, the Case Analysis Unit (CAU), and the Legal Service which performs research on EU legal developments.

A certain proportion of these research tasks have a direct practical application geared towards improving Eurojust's working methods or operational processes via research projects. Thus, Eurojust has engaged in research to enhance the interoperability of systems at an EU judicial level or to develop the Case Management System. In particular, the so-called EPOC (European Pool against Organised Crime) software projects which aimed to facilitate the secure storage of case-related personal data, the exchange of information amongst National Members and the analysis of that data.[190]

Eurojust also undertakes a form of research project entitled 'Strategic projects'. One such project, focused on 'Enhancing the work of Eurojust in drug trafficking cases', analysed and evaluated data and outcomes of Eurojust coordination meetings on drug trafficking cases between 1 September 2008 and 31 August 2010, to identify the main challenges and solutions concerning drug trafficking cases identified in Eurojust's work.[191] The final report of the project incorporates discussions at a so-called 'strategic seminar' in Krakow and the results of casework analysis. The research input is largely contributed by Eurojust representatives with additional contributions from the Member States as well as experts from Europol and EMCDDA. Other examples include a strategic project, initiated by Eurojust's team on trafficking and related crimes, entitled 'Eurojust action against trafficking in human beings' and aiming to identify possible legal and practical obstacles to THB prosecution in the European Union as well as a recently finalised strategic project in the area of VAT fraud.[192]

Eurojust also commissions ad hoc research studies in specific areas of its work. For instance, a research project analysing the role of Eurojust in the fight against human trafficking was conducted by the University of Amsterdam in 2005 under the auspices of the Dutch National Member at Eurojust and in close collaboration with the THB team at Eurojust, resulting in the report 'Eurojust and human trafficking: the state of affairs'.[193]

Finally it could be mentioned that Eurojust is also a provider of research and expertise to other organisations. For instance, in 2011 Eurojust provided written contri-

187. A. Serzysko (2011), *Eurojust and the European Judicial Network on a new legal basis*, ERA Forum, Vol. 11, pp. 585 – 600; P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels; Eurojust questionnaire responses.

188. P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels, p. 91.

189. Questionnaire responses.

190. For more information, see the EPOC Project page at the Eurojust website at: http://www.eurojust.europa.eu/Practitioners/operational/EpocIV/Pages/epoc-iv-project.aspx

191. Eurojust, *Enhancing the work of Eurojust in Drug Trafficking Cases – Final Results*, Strategic project, January 2012.

192. Eurojust, *Annual Report 2011*, p. 33.

193. See B. de Jonge (2005), *Eurojust and human trafficking: The state of affairs*, University of Amsterdam and Eurojust.

butions to studies initiated by the European Parliament on 'Estimated costs of EU counter-terrorism measures', and 'How does organised crime misuse EU funds?'[194]

3.3.3. Other activities for knowledge production and dissemination

A concrete manifestation of Eurojust's mission to become a 'centre of expertise' is its pulling together of various 'practitioners networks' consisting of experts from national authorities who share experiences and practices. Eurojust houses the network of contact points with respect to persons responsible for genocide, crimes against humanity and war crimes (Genocide Network)[195] as well as the European Judicial Network and the JITs Network. Eurojust also takes part in the work of the European Judicial Training Network[196] and the network of liaison magistrates.[197]

Eurojust is also highly active in providing fora for experts, practitioners and — on some occasions — academics, to meet and exchange views and practices. These have taken the form of closed 'Strategic seminars' (e.g. a strategic seminar on drugs co-organised with the Polish Presidency of the EU in October 2011), or workshops organised at larger academic conferences, such as the workshop organised at a conference of the European Academy of Forensic Science in August 2012.[198]

3.4. OLAF

OLAF, the European Anti-Fraud Office, is not technically an EU regulatory agency but a Directorate General of the European Commission, based in Brussels with just over 400 staff. Nevertheless, OLAF has budgetary and administrative autonomy, designed to make it operationally independent so that it can carry out an investigative function. Given its (semi-)independent status, as well as the nature of its activities and cooperation with bodies like Europol and Eurojust, it will be considered here alongside other EU Home Affairs agencies.

OLAF was established in 1999 with the mission to protect the financial interests of the European Union by combating fraud, corruption and any other illegal activities that harm the EU's financial interests.[199] The Office also investigates misconduct inside the EU institutions and supports the European Commission in the development and implementation of fraud prevention and detection policies.

OLAF is empowered to conduct both internal investigations (i.e. inside any European institution or body funded under the EU budget) and external investigations (i.e. at national level in both EU Member States and third countries), wherever the EU budget is at stake. For this purpose, OLAF may conduct on-the-spot checks and inspections on the premises of economic operators, in close cooperation with competent Member State and third-country authorities. Reports drawn up by the office can constitute a preparatory stage for prosecutions in the national courts. OLAF's principal areas of activity cover the use (or misuse) of EU funds, customs fraud, smuggling of counterfeit goods, tobacco and alcohol, and combating euro counterfeiting.[200]

It is via these activities, particularly the Office's cooperation with Europol in the field of euro counterfeiting, customs fraud and smuggling of illegal goods that OLAF's activities can be situated within the architecture of the ISS. The ISS explicitly mentions the role of OLAF when discussing the dismantling of criminal networks and combating criminal financing, citing the need for more joint operational activities between the Office, Eurojust, Europol and Member State authorities.[201] OLAF will also be a regular contributor of information and strategic analysis to the new SOCTA.[202]

As an investigative service, OLAF cannot impose penalties but must rely on the Member States and EU institutions to carry out its recommendations. In view of the constraints on its powers, OLAF adds value via a number of additional tasks complementary to its operational activities in the fight against fraud, including ensuring the collection and analysis of information, providing technical support, including training, to other EU institutions and national authorities and maintaining direct contact with the police and judicial authorities of the Member States.[203] A key expression of the Office's contribution of its 'know-how' to anti-fraud policymaking is the preparation, since 2000, of the EU's Anti-Fraud Strategy. Within the context of the anti-fraud strategy, the Office has been called on to 'develop the means needed for an overall view of the phenomenon of transnational fraud.'[204] Consequently, a visible effort has been made to 'give concrete expression to the value added at Community level'[205] including by developing a platform for the Office's expertise through developing its intelligence function, and mutual exchanges of know-how, practice and experience.

A reform of OLAF is currently underway via the European Commission's Proposal for the amendment of Regulation (EC) No 1073/1999 aimed to strengthen OLAF's operational efficiency and improve information flow between OLAF and other EU institutions and bodies.[206]

3.4.1. OLAF as an Intelligence Actor

'Intelligence' has become an emerging dimension of OLAF's activities, as part of the increasing emphasis placed by the Commission on the Office's fraud prevention mandate. In its 2003 evaluation of OLAF, the Commission welcomed the establishment of a strategic and operational intelligence function in OLAF and urged further progress in this respect, calling on the office to 'develop its strategic and operational intelligence function and to adapt, in liaison with the national authorities, to the mobility of transnational and organised crime while preserving the possibility of unannounced action on the ground.'[207]

Within OLAF, Unit D4 'Strategic Analysis, Reporting, Joint Operations' is the main department together with Unit C3 'Operational Analysis and Forensics' which are responsible for intelligence activities. While official documents concerning OLAF make general reference to 'information exchanges and exploitation of strategic and operational intelligence'[208] between OLAF, Member States and various EU bodies, there is little elaboration as to the form such intelligence takes and how it is used. Under the heading of 'strategic analysis', the OLAF website simply states that:

> OLAF carries out analyses of its investigations in order to identify a number of threats and vulnerabilities the EU's finances and reputation are exposed to. The results of the analyses provided input for recommendations aimed at the Commission services for their day-to-day activities and the preparation of policy activities and legislative acts.[209]

An element of OLAF's strategic analysis activities are the so-called 'Case compendiums' or 'casebooks' — files produced by OLAF on anonymous cases which comprise a short description of the techniques used by fraudsters, patterns of vulnerabilities and fraud indicators ('red flags'). Depending on the subject of the cases, the compendiums are made available to relevant Commission departments, executive agencies, and authorities in the Member States.[210] In addition, OLAF develops specific 'threat analyses' to combat the counterfeiting of euro notes and coins on the basis of statistical and technical data that it receives from Member States and other sources (see below).[211]

OLAF's intelligence and threat analyses are fed into defining the investigative priorities of the agency on specific sectors or geographical areas.[212] They are also transmitted to other Commission departments and EU agencies where relevant, particularly Europol, with which OLAF has, since 2004, a Strategic Cooperation agreement that

194. Eurojust, *Annual Report 2011*, p. 30.

195. See the Eurojust website at: http://eurojust.europa.eu/Practitioners/networks-and-fora/Pages/genocide-network.aspx

196. See the European Judicial Training Network website at: http://www.ejtn.net/

197. P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels.

198. Eurojust press release, 'Improving forensic evidence in cross-border cases: Contribution of Eurojust to discussions at the 6th EAFS conference.'

199. OLAF derives its legal basis from Article 325 of the Lisbon Treaty and the Commission Decision establishing the European Anti-Fraud Office (OLAF) OJ L 136/20, 31.05.1999.

200. See OLAF, *The OLAF Report 2011*, European Commission, Brussels.

201. Commission Communication, *The EU Internal Security Strategy in Action: Five Steps towards a more secure Europe*, COM(2010)673 final, 22.11.2010, p. 5.

202. Council of the EU, Serious and Organised Crime Threat Assessment (SOCTA) – Methodology, 12159/12, Brussels, 4 July 2012.

203. Article 2 of the Commission Decision establishing the European Anti-Fraud Office (OLAF) OJ L 136/20, 31.05.1999.

204. Commission Report, *Evaluation of the Activities of the European Anti-Fraud Office (OLAF)*, COM (2003) 154 final, 02.04.2003, p. 26.

205. Commission Report, *Evaluation of the Activities of the European Anti-Fraud Office (OLAF)*, COM (2003) 154 final, 02.04.2003, p. 16.

206. Commission amended proposal for a regulation amending regulation (EC) No. 1073/1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing regulation (EURATOM) No 1074/1999, SEC (2011) 343 final, COM(2011) 135 final, 17.03.2011.

207. Commission Report, *Evaluation of the Activities of the European Anti-Fraud Office (OLAF)*, COM (2003) 154 final, 02.04.2003, p.16.

208. Commission Report, *Evaluation of the Activities of the European Anti-Fraud Office (OLAF)*, COM (2003) 154 final, 02.04.2003.

209. See the OLAF website at: http://ec.europa.eu/anti_fraud/policy/preventing-fraud/index_en.htm.

210. See the OLAF website at: http://ec.europa.eu/anti_fraud/policy/preventing-fraud/index_en.htm.

211. Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, OJ L 181/6, 4.7.2001.

212. OLAF, *Investigation Policy Priorities (IPP)*, Brussels 2011, available at: http://ec.europa.eu/anti_fraud/documents/ipp_for_amp_en.pdf

allows the two organisations to cooperate at a strategic and technical level on fraud, corruption, money laundering and euro counterfeiting.

3.4.1.1. Data and information management

OLAF gathers data from Member States authorities, its own operational experience and a variety of other sources, including Commission audits, Court of Auditors reports, third countries (particularly with regard to euro counterfeiting) and open and commercial sources.

Given the importance of data reporting by the Member States for investigative purposes as well as a means for OLAF to gain an accurate and comprehensive picture of fraud across the EU, OLAF has put in place dedicated information tools for reporting purposes, such as the Information Management System (IMS) built in the Anti-Fraud Information System platform.

However, it has been noted that despite OLAF's sustained attempts to put in place channels of cooperation with the Member States, there is no uniform system for the exchange of data and details on irregularities and cases of fraud. This is partly because systematic data collection is affected by the diversity of meanings ascribed to fraud, and the differences in the level of criminalization attributed to fraudulent behaviour in the national laws of the Member States. The Office has also complained about a more generalized lack of communication between national audit authorities which has led it to face inherent difficulties in obtaining data on EU fraud from national authorities. As Xanthaki states, 'lack of information on new cases of EU fraud at the national level deprives OLAF of a whole parameter of success in the completion of its task.'[213]

While OLAF has struggled to gather data from national authorities, the proportion of information coming from non-public sector sources has seen a steady increase. In its 2011 Annual report, OLAF reported that the Office had received 1046 so-called 'incoming information items' in 2011, three quarters of which came from private sources.[214] As is always the case with data from private sources, there are question marks about origin and accuracy. With regard to information received from Member States, reliability is guaranteed by Member State authorities themselves. It is not clear how the accuracy of information received from private sources about possible frauds and irregularities is ensured.

This is an important question given the multi-varied uses of this information. As well as using this information for its own investigations and analyses, OLAF shares it through several different databases and applications such as the 'Irregularity Management System' , available to Commission departments, the 'Central Exclusion Database' on individuals or entities blocked from receiving EU funds and the 'Early Warning System', which contains information on people, companies and organisations that could pose a fraud threat to EU funds or revenue and which is open to the Commission and EU agencies.[215]

3.4.2. Research and development activities

Research and development activities at OLAF are centralized in Unit D5 'Hercule, Pericles & Euro protection' which undertakes both its own internal research tasks as well as financing external activities under the so-called 'Pericles' and 'Hercule' programmes.

A large proportion of this unit's R&D activities are focused on technical research tasks which have a practical application in the fight against fraud, and particularly euro counterfeiting. For instance internal R&D is centralized within the European Technical and Scientific Centre[216] (in Unit D5) which analyses and classifies every new type of counterfeit euro coin and delivers technical reports to Coin National Analysis Centres and law enforcement authorities.

Concerning external research and development projects, these are funded largely under either the Pericles Programme, which supports diverse projects aimed at strengthening the protection of euro banknotes and coins,[217] or the Hercule Programme which has a more general focus on improving transnational and multidisciplinary cooperation between the Member States and the Commission in fighting and preventing fraud against the EU budget.[218] While research projects and studies funded under the Pericles Programme are of a more technical nature (for instance, a study on the 'Definition of a calibration procedure for electrical conductivity measurement of coins' and 'Security features for future coins'), the Hercule Programme allocates a modest research budget (EUR 0.7 million in 2012) for co-financing academic studies and seminars on the protection of EU financial interests, including comparative law studies.

In addition to research projects commissioned under these two multi-annual financing instruments, OLAF can also issue open calls for tenders on ad hoc studies. In 2012 for instance, the Office commissioned a study to assess the impact of corruption on public procurement.[219]

3.4.3. Other activities for knowledge production and dissemination

Partially to offset the limitations on OLAF's powers, the Office has seen a multiplication of sub-bodies created to support or improve OLAF's performance in fulfilling its tasks. One of the most important of these is the OLAF Anti-Fraud Communicators Network (OAFCN) whose aim is to create dialogue and work to inform, raise awareness and develop a 'prevention culture' among practitioners and national authorities.

In addition various task forces have been created composed of OLAF representatives and relevant experts from the competent authorities of the Member States acting as crisis units in certain sectors.[220] One such example is the OLAF Cigarettes Task Group which investigates and coordinates criminal cases relating to large-scale, international cigarette smuggling.

In addition to the coordination and exchange of information and practices, OLAF also provides the competent national authorities with training, in the form of organising seminars, workshops and visits, including through activities co-funded/outsourced to external contractors under the Pericles and Hercule Programmes (see section 3.4.2. above). OLAF also provides training on analytical tools and training on how to identify risk indicators both for Commission officials and Member State representatives.[221]

3.5. CEPOL

The European Police College (CEPOL) was founded in 2002 and established as a third pillar EU agency in 2005 located at Bramshill in the United Kingdom. CEPOL's mandates and tasks are laid down in Council Decision 2005/681/JHA, which states that 'CEPOL shall function as a network, by bringing together the national training institutes in the Member States whose tasks include the training of senior police officers, which shall cooperate closely to that end.'[222]

CEPOL's principal objectives are to increase knowledge of the national police systems and structures of other Member States, and improve knowledge amongst police authorities of EU and international instruments, with a view to support the development of a European approach to the fight against crime, and in particular cross-border crime.[223]

In terms of tasks, CEPOL's core business is to provide training courses for senior police officers of the EU Member States, with a focus on spreading information and

213. H. Xanthaki (2010), 'What is EU Fraud? And can OLAF really combat it?', *Journal of Financial Crime*, Vol. 17, p. 138.

214. OLAF, *The OLAF Report 2011*, European Commission, Brussels.

215. For more information, see OLAF's website (http://ec.europa.eu/anti_fraud/policy/preventing-fraud/index_en.htm).

216. Established by Commission Decision 2005/37/EC of 29 October 2004 establishing the European Technical and Scientific Centre (ETSC) and providing for coordination of technical actions to protect euro coins against counterfeiting, OJ L 19, 21.01.2005.

217. Council Decision of 30 January 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme), OJ L 36/40, 08.02.2006.

218. Decision No 878/2007/EC of the Parliament and Council of 23 July 2007 amending and extending Decision No 804/2004/EC establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (Hercule II programme) OJ L 193, 25.7.2007, p. 18-22.

219. See the term of reference for the study at: http://ec.europa.eu/anti_fraud/documents/calls-for-tender-2011/anti_fraud_evaluation_mechanism_en.pdf

220. Commission Report, *Evaluation of the Activities of the European Anti-Fraud Office (OLAF)*, COM (2003) 154 final, 02.04.2003.

221. OLAF official website: http://ec.europa.eu/anti_fraud/policy/preventing-fraud/index_en.htm.

222. Article 1 of Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA, OJ L 256/63, 1.10.2005.

223. Articles 5 and 6 of Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA, OJ L 256/63, 1.10.2005.

knowledge and fostering cross-border contacts. Developing common curricula, exchange programmes and the dissemination of research findings are additional tasks.[224] The agency relies heavily on decentralized networks for the delivery of its actions, via the establishment of National Contact Points in the Member States, situated either in the national police training institute, the Interior Ministry or the Police.

Concerning CEPOL's place in relation to the wider EU security policy architecture, CEPOL uses the ISS as a guideline for the identification of current and future challenges in European Law Enforcement. As stated by CEPOL's Director, Ferenc Banfi, 'CEPOL follows closely the changes originating from the Lisbon Treaty and the Stockholm Programme and updates its curricula accordingly. The recent Council conclusions on the creation and implementation of an EU policy cycle for organised and serious international crime will be incorporated into our training portfolio. The promotion of this policy will be among our key objectives.'[225]

In addition, within the ISS, CEPOL is directly called upon to contribute together with EU Member States, Europol and Eurojust to the development of capacities for investigation and prosecution of cybercrime — including through cybercrime awareness and training capabilities — and to a strategy for the collection, analysis and sharing of information on criminal financial transactions, including training.

It has been highlighted that the current CEPOL Council Decision has not kept pace with the development in CEPOL's new strategic mission, tasks (including research-related) and goals which include to develop CEPOL into 'a European law enforcement knowledge base'.[226] Consequently, early steps have been taken towards an amendment of the CEPOL Council Decision,[227] with the Commission intending to propose a new Council Decision on CEPOL in 2013.

3.5.1. Trainings and learning-based activities

It is CEPOL's vision that the agency be acknowledged by authorities in the police and academic worlds as the primary source of learning and development in the field of education and training for better cooperation and policing in Europe.

Face-to-face training is the agency's main activity, with CEPOL typically organising between 80-100 courses and seminars per year. Activities are implemented at the National Police Training colleges of the Member States and cover a wide range of themes. In 2011, training covered a range of topics that included police cooperation, counterterrorism and extremism, white collar and environmental crime, irregular immigration and border management, trafficking in human beings, drug trafficking, other serious and organised crimes, crime prevention and public order.[228]

Available data indicate that CEPOL's training activities have had a total reach of around 11,604 participants over the period 2006-2011. The progressive development and roll-out of e-learning programmes and online webinars is expected to increase participation rates for CEPOL's training activities significantly.[229]

CEPOL trainings are based partially on its so-called 'Common Curricula' which are also intended to be incorporated into national police training arrangements. To date, CEPOL has developed 10 Common Curricula.[230] In order to ensure that its training and common curricula impact national law enforcement culture, CEPOL has put in place tools to ensure learning is translated from individual to institutional level, including by developing trainings specifically on the implementation of common curricula at national level and requesting participants of exchange programmes to draw up 'cascading plans' to demonstrate how new knowledge will be put in place in their organisations.[231]

Finally, it is relevant to note that CEPOL is currently in the process of developing a Master's degree training programme in which modules are currently in the process

224. Article 7 of Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA, OJ L 256/63, 1.10.2005.

225. Speech by Ferenc Banfi, Director of CEPOL at the EPP Group Hearing on 'The Future of Intelligence and Internal Security' 31 March 2011.

226. CEPOL, *Multi-Annual Strategy Plan 2010 – 2014.*

227. Hence the decision by the European Commission to commission GHK Consulting to conduct a study and impact assessment on the amendment of Council Decision 2005/681/JHA setting up CEPOL which was published in 2012.

228. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report., p. 28.

229. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report., p. 32.

230. For more information see: http://www.cepol.europa.eu/index.php?id=common-curricula.

231. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report., p. 32.

of development by the CEPOL secretariat and four partner police training institutes.[232]

Given the growing importance of CEPOL's training activities, its ambition as to their impact on national police cultures and even the development of more academic degree qualifications, the quality and relevance of its learning tools becomes critical. In this context, it is important to highlight that there have been certain criticisms directed towards CEPOL's training activities. For instance, taking the topic of human trafficking as an example, the five-year evaluation report on CEPOL found that the content of the Common Curricula on THB had a number of flaws. These included the fact that elements of the module were outdated; only a handful of Member States had been involved in the drafting which undermined its relevance for other Member States. Also of concern, the curricula were found to provide little background (such as root causes) on the human trafficking phenomena and tended to emphasise the legislative and criminal aspects of trafficking, rather than providing a well-rounded overview of the challenges that human trafficking brings to law enforcement, with social issues, such as a focus on the treatment of victims, given limited attention. The evaluators summarized the shortcomings as follows:[233]

> 'Rather than seeking to invigorate the CC with a range of ideas, experiences, perspectives, and techniques, CEPOL took the view that only police trainers have the necessary expertise to develop its CC. This has led to a somewhat narrow, and even dated, coverage of the subject, and is possibly a contributory factor in its limited interest to Members States with more experience in this area.'

A similar assessment is echoed in the latest evaluation report on CEPOL which found that the content of trainings have been slow to adapt to new thinking and approaches. For example, despite recommendations formulated in post-course evaluations of 2006, 2007 and 2008 to divide the training on the fight against trafficking in human beings and illegal immigration into two specific trainings, one single training on these issues continued in 2009 and 2012. Only in 2011 was a specific training on trafficking in human beings implemented.

The shortcomings identified here in the content and approach to CEPOL trainings raise serious questions, particularly where they concern such sensitive topics of police activity.

3.5.2. CEPOL as an intelligence actor

Due to the nature of its mandate and tasks, CEPOL does not produce its own intelligence products nor does it deal with operational intelligence. Nevertheless, in line with its obligation to align its activities with the policy cycle and the ISS, CEPOL has been careful to locate its training actions within the narrative framework of an increasingly intelligence-led approach to EU security and crime fighting. CEPOL Director, Ferenc Banfi, has underscored where he sees CEPOL's place in the new EU security architecture:

> The efficient and effective realization of the Internal Security Strategy and the Stockholm Programme require a new security culture, and requires changes in the attitudes among law enforcement officials. A new generation of EU Law Enforcement Professionals will not spring up overnight but will develop as a result of renewed attention towards law enforcement training and education.[234]

According to Dr Banfi, by contributing to joint intelligence training, CEPOL helps to foster a genuine European law enforcement culture by offering European training to

232. http://en.ensp.interieur.gouv.fr/Home/News/On-the-way-towards-a-CEPOL-Master-programme

233. *CEPOL Five Year Report*, 31 January 2011, p.49-50.

234. Speech by Ferenc Banfi, Director of CEPOL at the EPP Group Hearing on 'The Future of Intelligence and Internal Security' 31 March 2011.

authorities of all EU Member States, to encourage the understanding of the European dimensions and the complexities of law enforcement cooperation, to enhance specific skills, knowledge and experience in developing joint intelligence-led operations, and encourage the sharing of data, information and intelligence, and to build confidence and trust among law enforcement organisations.

Out of the range of seminars, courses and conferences offered by CEPOL, those offered on the following themes relate most directly to fostering this intelligence culture: crime intelligence, risk assessment and intelligence-led policing, undercover operations, Joint Investigation Teams, South-East European Organised Crime organisations, North-East European Organised Crime organisations and counterterrorism. CEPOL also draws upon Europol's OCTA as a reference document when defining its training priorities.[235]

3.5.3. Research and development activities

In addition to its main role in training, CEPOL carries out a range of activities in the research and science field of policing. This despite the fact that reference to research in the CEPOL Council Decision is limited, mentioning only the task to 'disseminate best practice and research findings'. The agency's research activities have gone beyond dissemination and CEPOL is taking an increasingly active role in this domain.

Research activities are primarily the responsibility of the Research and Knowledge Management Officer, who is responsible for all distributive and organisational aspects regarding police research and police science in the EU.[236] In addition, Research and Science Correspondents are appointed in each of the Member States with the task of forging a 'link between the national police training institutes, a country's scientific community and CEPOL Secretariat with regard to police science and research.'[237]

The core research related tasks managed by the agency are CEPOL's Police Research and Science Bulletin and the Annual Police Research and Science Conferences.

The CEPOL Police Research and Science Bulletin is an electronic periodical 'dedicated to the dissemination of research findings on the one hand and to making a significant contribution towards the promotion of a European approach to police science on the other'.[238] The scope of the publication is quite wide ranging from editorials and articles about new findings or publications in police research to advertising upcoming events or CEPOL activities. The Bulletin is drafted by CEPOL members, also accepting contributions from external professionals and academics. Three editions of the Bulletin were published in 2011. Members of CEPOL's Research and Science Working Group perform the role of editorial board of the publication.

CEPOL's Annual Police Research and Science Conferences are the flagship event for CEPOL's research and science activities, the aim being again to support the dissemination of research results and promote cooperation between police training institutions, universities, research institutes and researchers in the field of police science. In 2011, the conference focused on cyber security, cyber crime and social networks and was co-organised with the Spanish Ministry of Interior.[239]

In addition to these two core tasks, CEPOL also engages in ad hoc studies, such as those (authored in collaboration with external researchers) on the state of European police research[240] and events with a research dimension. One such example was a conference on domestic violence co-organised with the Cypriot Presidency of the EU together with the Cypriot Police. The conference was preceded by an in-depth analytical study conducted by Cyprus police on domestic violence. The study was presented and discussed during the event. It is interesting to note that the vast majority of the participants at the conference were members of national police authorities with only two academics and one representative from a Civil Society Organisation present.[241]

235. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report.

236. Until recently, all issues around research were the responsibility of CEPOL's Science, Research and Development Unit and the Research and Science Working Group until these were disbanded following an institutional restructuring in 2011 and 2012.

237. See the CEPOL website: www.CEPOL.europa.eu

238. See the CEPOL website: http://www.cepol.europa.eu/index.php?id=science-research-bulletin

239. See the CEPOL website: https://www.cepol.europa.eu/index.php?id=news-room

240. G. Hanak and V. Hofinger (2005), *Police Science and Research in the EU*, CEPOL and the Institute for the Sociology of Law and Criminology, Vienna; H. Jaschke et al (2007), *Perspectives of Police Science in Europe – Final Report*, Project Group on a European Approach to Police Science.

241. Presidency note on the outcome of the CEPOL Presidency Conference on overcoming attrition in domestic violence through policing held on 10-12 July 2012 in Limassol (Cyprus), doc no. 12718/12, 28 August 2012.

242. Presidency note on the outcome of the CEPOL Presidency Conference on overcoming attrition in domestic violence through policing held on 10-12 July 2012 in Limassol (Cyprus), doc no. 12718/12, 28 August 2012.

243. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report, p. 29.

244. European Parliament, Question for written answer to the Commission by Cornelia Ernst (GUE/NGL) on 'Compatibility of the Godiac project with fundamental rights', 21 February 2011.

245. *CEPOL Five Year Report*, 31 January 2011.

246. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report., p.39.

247. Council of the EU, the Stockholm Programme – An Open and Secure Europe serving and protecting citizens, 5731/10, Brussels, 3 March 2010.

248. Letter from Mr Werkstrom, Swedish Presidency, to the Director of Europol of 30 November 2009, cited in the General Secretariat (2010), *Interim Report on Cooperation between JHA agencies*, 29 January 2010, 5816/10.

249. Council of the European Union (2011), *Scorecard – Implementation of the JHA Agencies report*, 18077/11, 5.12.2011.

250. Agreement between Eurojust and Europol, 1 October 2009, The Hague. Available at: https://www.europol.europa.eu/sites/default/files/flags/eurojust_.pdf

251. P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels.

This is relevant to note, given that such meetings not only aim to disseminate research findings but also gather expert input which then feeds back into CEPOL's 'knowledge' and learning products. For instance, the joint Presidency conference on domestic violence was used to present, discuss and edit a European Union handbook of best police practices in overcoming attrition in domestic violence, and results from the event will also supplement the CEPOL Common Curriculum on Policing Domestic Violence.[242]

Finally, CEPOL also participates in external research projects. For instance, CEPOL participates as an associated partner in the EU funded GODIAC research project which aims to establish a common approach to policing political demonstrations. The project is financed under the Prevention and Fight Against Crime Programme of the European Commission's DG Home Affairs and coordinated by the Swedish National Police Board, with the majority of partners in the consortium also being made up of police authorities.[243] In 2011, a European Parliament question was tabled on the compatibility of the Godiac project with fundamental rights.[244]

CEPOL's five-year evaluation report noted that CEPOL focused essentially on promoting expert or professional collaboration rather than using its networks of National Contact Points as a way of engaging a broader range of stakeholders.[245] This assessment was confirmed by the most recent evaluation of CEPOL by GHK Consulting, which identified the lack of structured cooperation between the agency and national and European research institutes or initiatives as an important shortcoming. It stated that:

> At national level, there is a strong link between NCPs and national police academies. In contrast, this link is much weaker when it comes to cooperation with other universities and national research institutes. This lack of cooperation undermines the quality of CEPOL outputs in relation to research and science.[246]

3.6. Inter-agency cooperation

Besides the growing importance of individual agencies and their knowledge activities within the ISS, the need to stimulate inter-agency cooperation and exploit synergies within the scope of their activities has also become a major focus. The Stockholm Programme highlights 'stringent cooperation between the Union agencies, including improving their information exchange' as one of the principles of the EU's ISS.[247]

In 2009, the Swedish Presidency requested Europol to draft a report on how to further improve cooperation between the four Home Affairs agencies Europol, Eurojust, Frontex and CEPOL."[248] The report identified 5 key objectives of cooperation of which the third one was to 'combine efforts in the field of research and development' and the fourth one to 'undertake joint efforts in the field of training'. The four agencies in question are now in charge with implementing the measures proposed in the report using a scorecard to track their progress.[249]

These new efforts to develop systematic cooperation between the agencies will build on a quite extensive set of pre-existing bilateral relations, examples of which have already been highlighted in the overview of the agencies' knowledge activities above. For instance, the cooperation of Europol and Eurojust (based on an operational agreement signed in 2009)[250] includes the exchange of information, including strategic analysis. Eurojust contributes to Europol's OCTA and TE-SAT and participates in an estimated two-thirds of Europol's Analysis Work Files while Europol in turn participates in regular casework coordination meetings.[251]

Similarly Frontex and Europol regularly exchange information, strategic assess-

ments and engage in operational cooperation covering issues of common concern, namely trafficking in human beings and facilitated immigration. They are regular contributors to one another's intelligence products (Frontex to the OCTA and Europol to the ARA). Frontex has had less cooperation with OLAF and Eurojust due to their specific mandates, although it has intensified contacts with Eurojust since 2010, including collaborating to produce the Frontex manual of Trafficking in Human Beings.[252]

In addition to Eurojust's relations with Europol and Frontex, it has also signed a Practical Agreement on Arrangements of Cooperation with OLAF, based on which the two agencies hold quarterly meetings, engage in regular exchanges of case referrals, summaries and related information.[253] OLAF in turn has relatively extensive relations with Europol, given that fraud and corruption are covered both by Europol and OLAF's mandate. Relations are based on an operational cooperation agreement in place since 2004 allowing exchanges at both technical and strategic levels on fraud, corruption, money laundering and euro counterfeiting.[254]

Concerning CEPOL, formal cooperation is mainly concentrated around relations with Europol and Frontex. A 2007 Cooperation agreement with Europol provides for the exchange of strategic information (e.g. strategic reports, threat assessments, best practice, training but excluding personal data). Similarly, relations with Frontex (based on the 2009 agreement) aim to enhance coordination and exchange of information on training activities, to contribute to the development of common training materials as well as to the exchange of expertise and best practices. CEPOL consults with Europol and Frontex concerning the identification of training needs and priority areas (drawing particularly on the OCTA).[255]

4. CROSS-CUTTING FEATURES IN THE PRODUCTION AND USE OF KNOWLEDGE BY EU HOME AFFAIRS AGENCIES

Section 3 of this paper examined each of the five EU Home Affairs agencies, providing a systematic overview of the way in which each agency produces and uses knowledge in its daily activities. Building on this empirical overview, four cross-cutting issues or findings emerge pertaining to the place of knowledge in the activities of Europol, Frontex, Eurojust, OLAF and CEPOL. These shared features are central to understanding the link between the ISS and knowledge (including evaluating evidence-based claims underpinning the ISS) and the place of agencies in the knowledge production process.

4.1. Lack of conceptual clarity around 'knowledge'

The first finding is that 'knowledge' as presented by EU Home Affairs agencies is an ambiguous and fluid concept. All of the agencies under study use and deal with terms such as 'knowledge', 'data', 'information', 'evidence', 'research', etc.; yet definitions of these terms are seldom, if never, provided, neither in the agencies' legal mandates, nor in their official publications. As a result, EU Home Affairs agencies use terms interchangeably or apply a wide interpretation of such concepts, engaging in a diverse range of knowledge activities.

Table 2 demonstrates the extent to which all five agencies are experimenting with a range of techniques of knowledge production. However, as might be expected given the conceptual ambiguity surrounding these terms, there is no common approach across

252. Council of the European Union (2011), *Scorecard – Implementation of the JHA Agencies report*, 18077/11, 5.12.2011.

253. Information regarding a Practical Agreement on arrangements of cooperation between Eurojust and OLAF, OJ C 314 , 09/12/2008.

254. Administrative arrangement between Europol and OLAF, 8 April 2004, Brussels.

255. GHK (2012) Study on the amendment of Council Decision 2005/681/JHA setting up CEPOL activity – Final Report.

the agencies, and each agency has its own habits, practices and framings when engaging in activities for the production of 'knowledge'. Thus, the nature of 'data collection' varies for each agency, from the systematic reporting of statistical data, as defined by legal instruments adopted specifically for that purpose, to the ad hoc gathering of information submitted on a voluntary basis by Member States, a divergence which can have important consequences on the reliability and relevance of the knowledge and evidence of which such data form a part.

Table 2. Engagement by the five agencies in different forms of knowledge production

Type of 'knowledge' activity	Europol	Frontex	Eurojust	OLAF	CEPOL
Information					
Developing intelligence	✓	✓	✓	✓	
Data gathering	✓	✓	✓	✓	
R&D					
Internal research	✓	✓	✓	✓	✓
Collaborative research	✓	✓	✓		✓
Outsourcing to externals		✓		✓	✓
Inputs to EU FP research	✓	✓			
Other soft policy tools	✓	✓	✓	✓	✓

'Intelligence' too takes various forms and performs various functions. Referred to by a variety of terms (risk analysis, strategic analysis, threat assessments, situation reports) the intelligence activities undertaken by these agencies diverge from a traditional understanding of intelligence, as is typically understood in the context of criminal justice policing towards a proactive, future-oriented approach to crime-fighting (see section 4.3. below). The predictive nature of their intelligence products again varies from agency to agency with certain strategic tools providing an overview of current trends rather than identifying future threats.

A further example of this conceptual ambiguity can be found in the multiple understanding and functions of 'research and development' activities. Our overview revealed a diverse picture of how 'research' is interpreted between agencies (and even within single agencies). What is classed as 'research' by certain agencies often overlaps with information sharing, intelligence, or the development and exchange of 'best practices'. For instance, a joint project currently being undertaken between Europol and the US Department of Homeland Security on 'Countering Violent extremism' will see the two agencies 'share information on case studies, focusing on suspicious behaviour and other indicators, and develop best practices to counter terrorist radicalisation'.[256] This interpretation of research very much fits with Europol's role as an intelligence broker.

We see that for several agencies research has a primarily technical/operational focus, aimed at responding directly to practical needs of the agency or the national competent authorities of the Member States. For example, Eurojust has managed research projects aimed at strengthening the exchange of data between the Member States and Eurojust. Even so-called 'strategic projects' undertaken by Eurojust serve, to a certain degree, as an evaluation mechanism of the successes and challenges of cooperation experienced by this agency and provide recommendations for improvements, including, in many cases, actions to strengthen Eurojust's role as a broker for coordination and cooperation. Indeed, it has been highlighted that action plans to improve internal processes are often

the result of research made and data collected for a strategic project.

Likewise, much of the research and development activities undertaken or funded by Frontex feed directly into the development of new border management technologies or surveillance systems. As Frontex has stated 'The agency strives to support the European Commission initiatives in the area of border management through evidence-based research and the development of new systems and tools.' Key examples in this respect are Frontex's support, through research projects, to the Commission's legislative proposals on the Smart Borders Package and European Borders Surveillance System (Eurosur).

These examples demonstrate the wide boundaries of agencies' 'research' activities and the caution that might be exercised when dealing with results and evidence that emerge from them. In general, the question of 'what is knowledge' is intimately linked to the question of what constitutes objective evidence. Ambiguity in the former inevitably spills over into the latter. Lack of common definitions or understandings leads to uncertainty, and leaves scope for the manipulation of concepts. This has direct repercussions when it comes to assessing the quality of knowledge and evidence, as is explored further when assessing the place of independent academic research in agency-generated knowledge.

4.2. Agency-generated knowledge and the place of independent academic research

A key interest of this study was to investigate the place of independent research in the knowledge activities of EU Home Affairs agencies. However, our findings reveal that, on balance, the proportion of 'knowledge' generated by agencies based on the inputs of independent Social Science and Humanities researchers and academics is relatively small.

The overview in section three of this paper indicates that 'knowledge' is primarily drawn from Member States national authorities and 'experts' — specialist professionals or practitioners that EU Home Affairs agencies engage with via specifically established networks, task forces or working groups designed to pool information, gather practices and elicit feedback. There is some evidence of a shift in certain agencies, namely Frontex, which has begun to collaborate on a more regular basis with external academics or universities. Likewise, Europol has drawn on independent academic advice when developing and applying the new SOCTA. Nevertheless, overall the input of independent, academic expertise is modest.

This marginalisation of external academic SSH research represents an imbalance in the agencies' production of knowledge. The question of knowledge cannot be limited to the provision of expertise to EU Home Affairs agencies, when that expertise is embedded in a specific security or law enforcement culture. Indeed, it could be argued that an evidence-based EU policy in the field of internal security is best supported by a pluralistic debate and critical review.

Lack of such a critical review can lead to gaps in the knowledge base underpinning agency activities and by extension the ISS. One such gap that can be identified is the lack of a focus on ethics. This is an important omission given that the means undertaken by EU agencies to mobilise and support the fight against crime have led to the use of practices which can at times present inconsistencies with the protection of civil liberties and fundamental rights.[257] This is one domain where the input of social science and humanities research (with its focus on the impacts of phenomena on societies and individuals) could bring substantial added value. Frontex has shown willingness to remedy this gap, for instance by commissioning a study on ethics and border control carried out by the University of Birmingham (which comes alongside a recent drive to address fundamental rights criticisms concerning the agency's practices).

There are a number of tools available to the EU institutions and agencies which can help facilitate the critical input of recognised scholars in the social sciences. Research projects funded under the EU's 6th and 7th framework programmes can generate a significant degree of scientific expertise.[258] In recent years, however, the handling of the EU's research funding with regard to security research, and especially of the FP7 Security Theme (FP7-ST), deserves more scrutiny. Setting research priorities has been revealed to be heavily steered by representatives of national and EU Home Affairs agencies as well as representatives from private sector security companies.[259] Indeed, section three of this paper showed how Frontex and Europol in particular have taken on an increasingly active role in the programming and development of FP7 research priorities and projects. As a study reviewing security measures in the FP7 Programme for the European Parliament has shown,[260] the outcome of this process is a dialogue that is limited in scope, addressing security research primarily through the concerns of security agencies, services and the industry.[261]

4.3. A drive towards intelligence-led policing

The emphasis in the Internal Security Strategy on prevention and anticipation and the drive towards a proactive, intelligence-led approach to cross-border crime at EU level (see section two of this paper) is reflected in the growing prevalence of intelligence-led tools and strategies among EU Home Affairs agencies.

Sheptycki, Ben Jaffel and Bigo[262] refer to intelligence-led policing as:

> Developing data gathering, including and integrating covert and open sources, personal and non-personal information, to rely on an expert system (software or group of experts) in order to discover patterns of behaviour of a special group, from whose past behaviour, future steps can be deduced … the model is oriented towards the present and future actions committed by suspects more than the discovery of past events and the conviction of criminals.

The empirical overview in section 3 of this paper reveals that, to varying degrees, all the agencies under study are engaged in the production of analytical tools and early warning systems that aim to anticipate crime and predict, rank and diffuse threats. Table 3 sets out the key intelligence products and activities of each Home Affairs agency studied here. It is important to stress that these products take different forms and serve varying purposes. For instance, different products will have a different focus depending on the mandate of their authoring agency. Thus, where Europol's 'threat assessments' focus on organised criminal groups, their behaviour and inter-relationship with criminal markets, the Frontex so-called 'risk analyses' focus on immigration routes and risk factors relating to the EU external borders. Certain products (Europol's OCTAs, Frontex's ARAs) are more future-oriented than others (such as Eurojust's Terrorism Monitor).

However, what is important to bear in mind is that the majority of products listed above feed directly or indirectly into the policy cycle of the Internal Security Strategy with almost all of the agencies examined here (except CEPOL) contributing strategic analyses and intelligence input into Europol's OCTA, future SOCTA and TE-SAT. While CEPOL does not produce or develop intelligence itself, its training programmes are tailored to strategic threats with an EU dimension as well as offering trainings on how to conduct strategic analyses.

256. Europol Annual Report 2011.

257. E. Guild et al (2011), *Implementation of the EU Charter of Fundamental Rights and its Impact on EU Home Affairs Agencies*, Study prepared for the LIBE Committee of the European Parliament, Brussels.

258. For a critique on the wealth of research pertaining to EU migration policy and the application of these research results in EU policymaking, see S. Carrera & M. Merlino (2009), *Undocumented Immigrants and Rights in the EU: Addressing the Gap between Social Science Research and Policy-making in the Stockholm Programme?* CEPS Liberty and Security in Europe Series, December 2009.

259. A. Scherrer, J. Jeandesboz and E. P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels, pp.95-96.

260. J. Jeandesboz and F. Ragazzi (2010), *Review of security measures in the Research Framework Programme*, Study for the Directorate-General for Internal Policies of the European Parliament, Brussels.

261. The study found that an overview of security research projects sponsored through FP7 reveals an unequal distribution of funding, which is concentrated in a small number of participating countries and a small number of organisations, mostly major defence and security companies and applied research institutions. In addition, a large proportion of these projects are dedicated to developing technologies of surveillance, to the detriment of a broader reflection on the impact of such technologies on citizens and persons concerned with the EU's security policies.

262. J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International Organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament, p. 20.

Table 3. Key intelligence products and related tools by EU Home Affairs agency

Europol	Frontex	Eurojust
EU Organised Crime Threat Assessment (OCTA)	Frontex Annual Risk Analysis Report	Terrorism Conviction Monitor
Serious and Organised Crime Threat Assessment (SOCTA) – *forthcoming*	Frontex Semi-Annual Risk Analysis report	Strategic analysis reports
Russian Organised Crime Threat Assessment (ROCTA)	Frontex Risk Analysis Quarterly report	**OLAF**
Organised Crime Threat Assessment on West Africa (OCTA-WA)	Western Balkan Annual Risk Analysis	Casebooks
EU Terrorism Situation and Trend Report (TE-SAT)	Western Balkan Quarterly report	**CEPOL**
OC-SCAN Threat notices	Eastern Borders Annual Risk Analysis	Training tailored to strategic threats
	European Document Fraud Annual Risk Analysis	
	Weekly Monitor on North Africa and the Near East	

4.3.1. Intelligence and lack of transparency

Intelligence-led approaches to crime prevention are characterised by lack of transparency, with law enforcement agencies and other security bodies often keen to stress the necessary confidentiality that surround the gathering, processing and dissemination of intelligence.

Similarly, it is difficult to obtain detailed information about the intelligence products generated by the agencies, their data sources and methods. Few of the products listed in Table 3 are fully public. Europol produces both a restricted version and a public version of its OCTA and TE-SAT. Some Frontex risk analyses have both a public and a restricted version, while others are classified as restricted only. Eurojust's Terrorist Convictions Monitor is only available to Member States' judicial authorities upon request. The EU Home Affairs agencies under study emphasise that confidentiality is a pre-requisite for efficiency and for confidence building among Member States security practitioners.

The proliferation of intelligence actions by EU Home Affairs agencies and the secrecy surrounding these activities indicates that, despite the abolition of the former pillar structure with the Treaty of Lisbon, its legacy is still very much present in AFSJ cooperation and the activities of agencies like Europol, Frontex and Eurojust. Academics and policymakers expected that an end to the first/third pillar divide would also signal a decrease in doing things the third-pillar way and the respective deficiencies, such as a high democratic deficit, weak judicial control, along with the lack of transparency and accountability. Yet, with the integration of the agencies into the EU Internal Security Strategy and the JHA Policy Cycle, the working methods and mentalities not only reflect a continuation of the third pillar spirit but also its contamination of formerly first-pillar areas, such as external border controls and migration and asylum. The purpose and mandates of an agency such as Frontex become blurred, with Frontex increasingly evolving into a police and intelligence actor.[263]

This culture of secrecy can act to prevent scrutiny and accountability of decisions and actions taken. In the case of the intelligence products produced by agencies such as Frontex and Europol, it serves to shield them against thorough review of their robustness and reliability. This is particularly the case when strict confidentiality rules apply not only to the information contained in the intelligence reports, but also to the methodologies used to produce them. For instance, several academics and scholars have highlighted their struggle to obtain information about the methodology employed by Europol to devise the OCTA reports.[264] In the absence of information about how data was gathered, sources selected, and how data and information were processed, it is almost impossible to evaluate the quality of the intelligence reports and threat assessments produced by EU Home Affairs agencies and, by extension, the validity of the 'evidence-based' claims which underpin the ISS.

263. S. Carrera and E. Guild (2011), *Towards an Internal (In)security Strategy for the EU?*, CEPS Liberty and Security in Europe Series, CEPS, Brussels, January 2011.

264. See for instance, A. Scherrer, J. Jeandesboz and E. P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels; P. van Duyne (2007), 'OCTA 2006: the Unfulfilled Promise', Trends in Organised Crime, Vol.10, pp.120 – 128.

265. J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament; K. Von Lampe (2004), 'Making the second step before the first: Assessing Organised Crime', *Crime, Law and Social Change*, 42, pp.; J. Sheptycki (2004), 'Organisational pathologies in police intelligence systems: some contributions to the lexicon of intelligence-led policing', European Journal of Criminology, Vol. 1, No. 3, pp. 307-332.

266. A. de Moor and G. Vermeulen (2012), 'The Europol Council Decision: Transforming Europol into an Agency of the European Union', *Common Market Law Review*, 47, pp.1112; P. van Duyne (2007), 'OCTA 2006: the Unfulfilled Promise', Trends in Organised Crime, Vol.10, pp.120 – 128; P. van Duyne and T. Vander Beken (2009), 'The incantations of the EU organised crime policy making', Crime, Law and Social Change, Vol. 51, pp. 261-281; J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

267. P. van Duyne (2007), 'OCTA 2006: the Unfulfilled Promise', Trends in Organised Crime, Vol.10, pp.120 – 128; P. van Duyne and T. Vander Beken (2009), 'The incantations of the EU organised crime policy

4.3.2. Limitations and risks of intelligence products

Scholars have called into question the overall reliability, effectiveness and societal implications of threat assessments and the risk-based analyses that are fed into the intelligence-led approach to crime prevention.[265]

The intelligence products of EU Home Affairs agencies have not escaped criticism. Europol's OCTA, as it currently occupies a central place in the EU's policy cycle, has drawn the greatest attention from academics. What is known about the methods and approaches used to prepare the OCTA has been strongly criticized by the academic and research communities.[266] For instance, the scientific rigour of the questionnaire method used by Europol to gather information from Member States has been called into question given the ambiguous wording of the questions, lack of clear definitions or criteria for key concepts — such as organised crime — as well as the lack of transparency surrounding the procedures used to process the data gathered using these questionnaires. As mentioned above, very little is known about how data is made comparable and how information is filtered so that it fits into the overall threat assessment model.[267]

Broader questions on information reliability have contributed to the scepticism surrounding Europol's OCTA (and its regional variations including the ROCTA, OCTA-WA) and TE-SAT. One of the major obstacles to assess organised and serious crime in the EU relates to the lack of information and the difficulty to obtain reliable data and statistics. Challenges in this domain are evident for each of the four agencies (Europol, Frontex, Eurojust and OLAF) examined here, whose efforts to gather comprehensive data and information on EU crime phenomena has been marred by a lack of cooperation among the Member States on whom they are particularly reliant. This inevitably has important knock-on effects for the knowledge-base on which strategic analyses are conducted and intelligence products are based.

Reliance on Member States to contribute data, and their mixed record in this domain, implies that the gaps and weaknesses that have marked Europol's data collection would similarly affect the accuracy of its OCTA and TE-SAT. Even if one accepts that it is possible to produce a reliable threat assessment, this is certainly not possible without first establishing a solid information base. Moreover, establishing such as base, even if data is forthcoming the challenge of making data comparable, especially given the lack of similar offence categories, adds to the complication. How this is achieved in the case of OCTA, which receives input from a vast array of actors (EU Member States, EU agencies, private bodies and third countries) has not been explained.

Even where comparable data is available, threat assessments and situation reports need to be treated with caution. Where crime trends are discernible in such reports, they may refer more to contextual variables than to patterns of criminal cooperation or degrees of 'threat' posed by criminal networks. Changes in the broader environment surrounding criminal networks (political, legal or societal developments) may impact crime levels and do not allow to draw any indications regarding the activities, size or structure of criminal networks. In this vein, scholars have pointed to the *disorganised* nature of organised criminal groups, contending that the inherently fluid, unstable,

temporary and local nature of crime undermines the very concept that it is possible to map serious organised crime.[268]

Situation reports and threat assessments, rather than reflecting change in the number of organised crime activities, can, more often than not, simply reveal the investigative priorities of the police. Among both law enforcement officials and scholars, there is growing acknowledgement that situation reports often reflect primarily on the investigative priorities and allocation of resources of the police.[269] Other data contained in situation reports and threats assessments such as OCTA may also be influenced by organisational factors. According to Van Lampe:

> Since most reported investigations are conducted by specialised units which typically focus on specific types of offences or, most notably, specifically ethnically defined groups of offender the types of offences and the nationality of the suspects that appear in the organised crime reports are likely to reflect these specialisations more than actual variations.[270]

An overwhelming focus on the so-called 'non-indigenous' criminal groups and an emphasis on associating criminal organisations with a specific nationality or ethnic group is a distinguishing feature of the OCTA. This stands in tension with evidence of in-depth academic studies and research which indicate that, contrary to the commonly held belief about ethnic homogeneity among organised criminal networks, most cases involve multinational crime networks and the composition of active criminal organisations in the EU are almost never mono-ethnic or nationality based.[271]

Singling out certain national/ethnic groups in this way is problematic as it raises suspicion and stigmatises whole communities. This provides one example of how anticipative logics, particularly where they venture into the territory of profiling criminal groups, can have negative societal impacts, such as hindering processes of social integration and exacerbating the exclusion and marginalisation of certain sections of society, threatening the social cohesion of the EU.[272] Such approaches do little to foster 'trust' between citizens and the law enforcement institutions, particularly when they are not supported/justified by a strong empirical basis.

making', Crime, Law and Social Change, Vol. 51, pp. 261-281.

268. J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

269. K. Von Lampe (2004), 'Making the second step before the first: Assessing Organised Crime', *Crime, Law and Social Change*, 42, pp. 240.

270. K. Von Lampe (2004), 'Making the second step before the first: Assessing Organised Crime', *Crime, Law and Social Change*, 42, pp. 241.

271. K. Von Lampe (2004), 'Making the second step before the first: Assessing Organised Crime', *Crime, Law and Social Change*, 42, pp. 242; J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

272. A. Scherrer, J. Jeandesboz and E. P. Guittet (2011), *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels, p. 81.

4.4. Knowledge as a source of legitimacy and authority for EU Home Affairs agencies

The final cross-cutting finding of this study relates to the different functionalities of knowledge in the work of EU Home Affairs agencies. There have been various attempts in the literature to construe theoretical models aiming at facilitating a better understanding of the use of 'research evidence' or 'knowledge' by government agencies. Boswell has studied the alternative functions of knowledge use by policymakers, identifying three main types: 'instrumental' knowledge use which involves applying knowledge in a specific way, for instance to solve a policy problem or otherwise meet the needs of policymakers; 'legitimising' knowledge use, by which an organisation draws on 'expert knowledge' to enhance its legitimacy and claim more resources and competences over certain policy areas; and finally a 'substantiating' function by which knowledge can bring authority to certain policy decisions, where knowledge is primarily targeted at enhancing the credibility of a certain decision rather than directly improving the quality of the actors' policy outputs and practices.[273]

What is the extent of instrumental, legitimising and substantiating uses of knowledge in EU Home Affairs agencies? This analysis of agency activities reveals that all three functions of knowledge are at play. Without doubt, knowledge plays an important instrumental function in the work of EU Home Affairs agencies, demonstrated by the way agencies engage in research projects which take a primarily 'problem solving' or 'applied research' approach. These include research projects aimed at spearheading new techniques in crime analysis (Europol), strengthening information exchange (Eurojust), and developing new technologies to improve border surveillance (Frontex). However, when examining the instrumental function of knowledge more closely, a nuanced interpretation is necessary. One must bear in mind that in the process of defining a problem and using 'research' or 'knowledge' to fill the gap, the very construction of a 'problem' by an agency may serve other organisational purposes. This is evidenced for instance, by Frontex's role in the development of Eurosur, and the way that a series of research projects commissioned by the agency not only identified and defined as a problem the surveillance of the EU's Southern external borders but also developed a solution that placed Frontex at its core and involved an implicit increase of responsibility for the agency.

273. C. Boswell (2009), *The Political Uses of Expert Knowledge: Immigration Policy and Social Research*, Cambridge University Press, Cambridge.

Indeed, we find many examples of agencies drawing on knowledge for legitimising purposes. Our research confirms that a reliance on 'expert' knowledge, via the establishment of networks and working groups is high among each of the five EU Home Affairs agencies. Some agencies have been explicit about their wish to use research to establish partnerships with private sector experts and industry practitioners (Europol, Frontex). As scholars have argued, such measures endow public authorities with 'epistemic authority',[274] creating trust and confidence that their decisions and policy priorities are well-founded. This is particularly important when 'the level of risk' characterizing the policy area involved, such as terrorism, internal security, migration, etc. is high, i.e. the features of the policy are under contestation.

However, for EU Home Affairs agencies there are additional drivers which render the legitimizing function of knowledge particularly important. EU Home Affairs agencies operate in highly sensitive policy domains, which, despite dynamic European integration driving the construction of the AFSJ, still lay at the heart of national sovereignty of the EU Member States and their national law enforcement authorities. Subsequently, the powers accorded to EU Home Affairs agencies have been circumscribed in their legal mandates — restricted to playing primarily a supportive or coordinating role. This has left the EU Home Affairs agencies, on paper at least, with little operational powers and possibilities to directly impact policymaking in the EU. While Member States have restricted the powers of EU Home Affairs agencies, and sometimes shown reluctance in the degree to which they cooperate with them, at the same time agencies have been under considerable pressure to demonstrate their value-added. Certain agencies (Europol, CEPOL, OLAF) have, at specific moments in their evolution, received strong criticism from the Member States regarding their overall effectiveness and relevance.

These factors drive agencies to expand their powers and activities by engaging in 'soft' law and policy — actions relying on non-legally binding policy techniques, such as funding research, gathering data and analysing information, developing training and exchanging and pooling best practices. Agencies have justified and leveraged these activities by emphasising their unique positioning at the supranational level: only EU agencies, with their EU-wide overview of data, information and trends, are able to piece together the supranational picture of the EU landscape of organised or serious crime, especially cross-border crime. A particular example here is Eurojust, whose lack of a formal mandate to elicit cooperation from Member States led it to rely on 'informal' powers, deriving — as Jeney has contended — a 'persuasive authority' from networked knowledge.[275] Further, the future-oriented intelligence products of EU Home Affairs agencies, threat assessments and risk analyses, serve to reinforce the notion that the work of the agencies is increasingly valuable and indispensable. Here, the assessment by Scheptycki, Jaffel and Bigo of the added legitimizing role intelligence can play for police bodies and agencies such as Europol is instructive:

274. R. Geuss (2001), *History and Illusion in Politics*, Cambridge University Press, Cambridge.

275. P. Jeney (2012), *The Future of Eurojust*, Study for the Directorate General for Internal Policies of the European Parliament, Brussels, pp. 76, 94.

> They have insisted that they did not want operational powers (or not many) but that these would be vital to address the central threat of interconnecting transnational organised crime, terrorism and illegal migration, a threat so complex that it was beyond the reach of local or national police, not least because these interconnected threats were not only European, they were global. Through this narrative, their future as organisations has then been dependent on convincing that the threats of transnational organised crime and terrorism were more and more dangerous, more and more global, more and more unpredictable (except for them, because they have the capacities in terms of technologies and human competences to do so).[276]

The intelligence dimension of EU Home Affairs agencies work also provides a clear example of these agencies' application of the substantiating function of knowledge. The predictive potential of Europol's threat assessments and Frontex's risk analyses has been strongly questioned, as has been their real operational value for police officers and border guard officials on the ground, given the very general nature of these reports, their lack of specificity and the high divergence of situations faced by practitioners at national and local levels. One might argue, therefore, that these tools fulfil a primarily symbolic function, enhancing the credibility of policy decisions and garnering support for a preferred course of action. This can be seen both in the way intelligence products play a key role for agencies such as Europol and Frontex in providing the rationale for operational actions but also their place in feeding the Policy Cycle of the ISS. Here it is pertinent to note that recommendations stemming from the OCTA have in the past been so general as to justify almost any policy decision.

5. CONCLUSIONS

EU Home Affairs agencies are engaging in an expanding range of activities for the production and control of 'knowledge.' The precise form and extent of such knowledge (co)production varies from agency to agency, with certain agencies consolidating extensive research and development agendas or expanding already well established intelligence tasks, while others remain in the early stages of this process. Nevertheless, each of the five EU Home Affairs agencies examined display a dynamic approach to 'knowledge,' not only experimenting with a diverse range of activities but revealing clear ambitions to position themselves in the future as 'centres of expertise' or 'law enforcement knowledge bases'. The recent elevation of EU Home Affairs agencies to the forefront of the ISS and the EU policy cycle has served to validate and incentivise the knowledge activities of Europol, Frontex, Eurojust, OLAF and CEPOL, formalising their responsibility for the provision of 'knowledge' on security threats facing the EU, via the regular publication of, or input to, policy tools such as threat assessments, risk analyses and situation reports.

However, when examining the exact nature of agency driven 'knowledge' in closer detail, this paper finds that it presents several shortcomings when measured against criteria of objectivity, scientific rigour, reliability, relevance and accuracy. The knowledge (co)produced, applied and disseminated by EU Home Affairs agencies relies predominately on 'expert' knowledge drawn from networks of representatives from national law enforcement bodies, ministries of interior as well as professionals and practitioners from security industries, while the input of independent, academic (university-based) social science research is marginalised. This results in a narrow form of expertise, embedded in a specific security or law enforcement culture, one which

276. J. Sheptycki, H Ben Jaffel and D. Bigo (2011), *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament, p. 20.

does not take into account neither the wider debate and criticism surrounding the ultimate effectiveness or broad societal impacts of EU security policies nor their implications on civil liberties and fundamental rights. Further, such networked expertise undermines the concept of *depoliticised* knowledge, a precondition for 'evidence-based' policy-making.[277]

Concerns over the objectivity of agency-generated knowledge are reinforced by the centrality of intelligence-based knowledge as expressed through products and policy tools such as Europol's OCTA, Frontex's Risk Analyses and the various forms of strategic analysis carried out by Eurojust and OLAF. Although in developing these products, agencies may draw upon a wide range of data and information sources, it is one single agency that processes such information and turns it into a new form of 'knowledge'. Not only does this raise questions concerning neutrality, but the very opaqueness of the process puts such products beyond the reach of scientific assessments of their robustness and reliability. Moreover, increasingly intensive inter-agency cooperation means that intelligence as 'knowledge' is being circulated, re-packaged and re-cycled inside and among agencies, becoming self-reinforcing, yet increasingly separated from its original evidence base/sources.

Finally, this paper finds that the concept of 'knowledge' becomes profoundly diversified and transformed when examining the functions it serves in the work of EU Home Affairs agencies. Our analysis reveals a very complex landscape in terms of the different forms of knowledge produced and used by EU Home Affairs agencies and exposes an active use of the 'substantiating' and 'legitimising' functions of knowledge in agency activities. Where agencies engage in research activities geared towards identifying problems and developing solutions which ultimately place greater power on or strengthen the role of the agency itself, this raises important questions concerning independent research and conflict of interest.

In conclusion, the proliferation of activities by EU Home Affairs agencies to stimulate research, gather information, develop intelligence, and pool practices in support of the EU's fight against crime or migration management does not necessarily equal a parallel improvement in the knowledge base underpinning the ISS. The knowledge gaps and imbalances identified in this paper call for careful scrutiny of the rationale and justifications for policy priorities and decisions under the ISS, if the EU is not to be left facing a credibility gap in the implementation of its security agenda.

277. M. Naughton (2005), '"Evidence-based policy" and the government of the criminal justice system – only if the evidence fits!', *Critical Social Policy*, Vol. 25, No. 1, pp. 47-69.

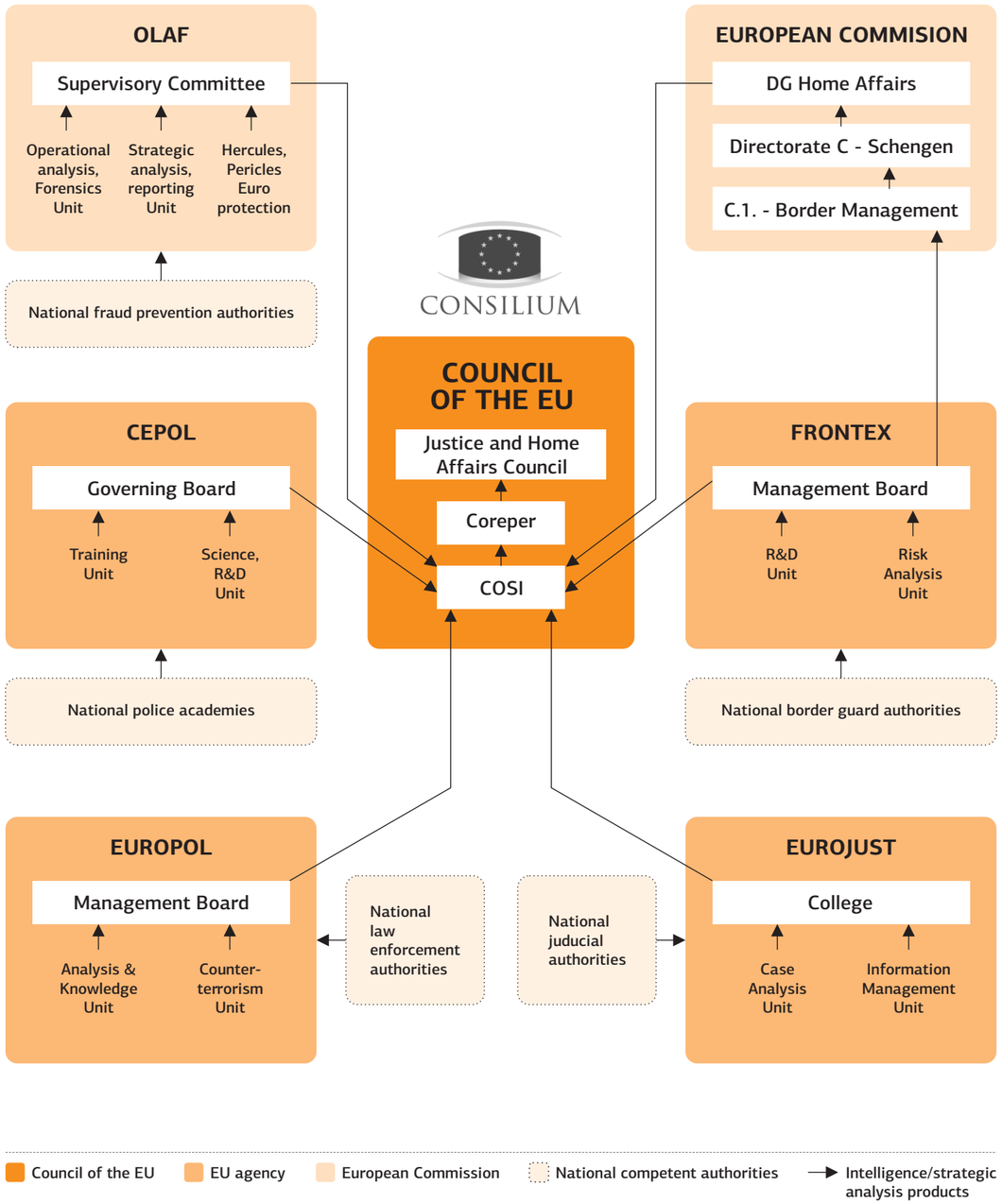
Work Package 3
State of the art:
Policies

3.3

'Internal security map': EU players, roles & interactions

by: Joanna Parkin and Sergio Carrera

Mapping of EU Home Affairs agencies and the flow of knowledge inside the ISS[278]



278. This mapping is based on research carried out in WP3 of the FIDUCIA project and set out in the FIDUCIA working paper 'EU Home Affairs Agencies and the Construction of EU Internal Security'. The mapping accompanies those research findings and depicts the flow of 'strategic knowledge' (intelligence-based policy tools) between EU Home Affairs agencies and the EU Council within the framework of the EU Policy Cycle for Serious and Organised Crime under the EU's Internal Security Strategy (ISS). It does not depict the exchange of knowledge between EU Home Affairs agencies.

Work Package 4
State of the art:
Public perceptions

4.1

Literature review on fear of crime & public attitudes towards crime, justice and punishment

by: Margarita Dobrynina, Evaldas Visockas, Judita Žukauskaitė

EXECUTIVE SUMMARY

The research project FIDUCIA (New European Crimes and Trust-based Policy) is funded primarily by the European Commission under the 7th Framework programme for Research. FIDUCIA will shed light on a number of distinctively 'new European' criminal behaviours that have emerged in the last decade as a consequence of technology developments and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation, and proposes a 'trust-based' policy model in relation to emerging forms of criminality.

Work package 4 reviews what is currently known about fear of crime, trust in justice and punitive attitudes of citizens across Europe. The theoretical assumption is that current public opinion about crime across Europe will shift in the wake of new forms of crime and new inter-ethnic tensions. Nurtured in part by tabloid media and radicalising political discourse, 'popular punitive' sentiments are characterised, among other things, by an emphasis on unexpected and growing crime, blaming certain social groups, distrust in the police and justice, and the endorsement of harsh, punitive measures.

D4.1 provides a systematic, up-to-date literature review of key European research on the fear of crime, punitive attitudes and trust in justice. The task is subdivided into sections on 'trust in justice', 'fear of crime', and 'punitive attitudes'. The aim is to identify the most common explanations that can be found in academic literature about the patterns and possible causes of fear of crime, punitive attitudes and trust in justice.

The key findings of the review are the following:

1. Trust in justice

- Trust in the judicial system can be described as the belief that the police and courts have good intentions and are competent to do what citizens expect them to do. Empirical data shows that public confidence is generally higher in the police than in courts.
- However, people have very little knowledge about how the criminal justice system works in practice. This may be the reason why people usually blame the courts and not the police for perceived increases in crime. There is also a discrepancy between public knowledge about particular categories of crime and how successful the criminal justice institutions are in dealing with them in reality. There is also a common misperception in Europe that violent crimes are increasing in numbers even though official statistics reveal the opposite.
- Recent academic works tend to question the utility of those performance measures that are commonly used to assess police agencies: crime-control policies have given insufficient attention to why people abide by the law, and too much attention to why people break it. The effectiveness-oriented measures do not take procedural fairness into account. However, there is a growing body of literature that argues that trust in the criminal justice system is to a great extent determined by its perceived fairness. This is in line with the assumption that besides rational choice, normative considerations play an equally important role in people's compliance with the law.

2. Fear of crime

The concept of fear of crime is difficult to define because it is closely related to a variety of other individual fears and anxieties. Nevertheless, fear of crime leads to physical and psychological isolation from community life, it weakens informal social control systems as well as the ability of an individual or a community to solve emerging problems. This creates an environment for other crimes and social disorders. Fear of crime also undermines public trust in the criminal justice system. All of this ultimately leads to public demands for a more stringent criminal justice policy and creates mass demand for private security and protective measures.

Fear of crime, as an element of public opinion, is a political symbol and, therefore, has an instrumental role in politics. This is the reason why it has become politicised over the past decades.

The mass media, through a so-called 'fear of crime feedback loop' have played an important role in bringing fear of crime onto the political agenda. On the one hand, the mass media shape public opinion and reproduce the social norms of society. On the other hand, since they reflect public opinion, the media are also representative of the public. In addition, the media participate in framing and adjusting the agendas of politicians and policymakers.

However, the mass media present only a very small proportion of all crimes and is, thus, very selective. By extensively reporting about violent crime, the media are capable of generating panic and as a result they promote public anxiety about emerging threats to personal security and societal values. This creates the conditions for an increase in fear of crime.

Nevertheless, the media are not the only source of fear of crime. They are not but one element in the cycle, so, their role should not be overestimated. In short, there is a relationship between the media and fear of crime, however, not a direct, causal one.

3. Punitive attitudes

- Based on a series of surveys conducted in the last two decades, it seems that levels of considered punitivity in European countries have decreased over time: the percentage of respondents reporting greater levels of punitivity has been declining on the European level. However, individual country statistics may differ from this general trend.
- Within the European context there is a very weak and statistically insignificant relationship between public opinion on sentencing and the actual level of imprisonment rates.
- Regarding the main factors affecting punitivity, the following relationships have been established by empirical research:
- Women usually hold fewer punitive sentencing attitudes than men.
- Older respondents tend to be more punitive than younger respondents.
- As education level increases, support for harsher sentences decreases.
- In general, minorities are more likely to hold non-punitive attitudes than non-minorities.
- Individuals with high levels of religiosity hold more punitive attitudes than people with lower levels.
- Individuals with higher incomes and from the upper classes hold more punitive attitudes regarding punishment than individuals from lower income groups or lower classes.
- Married people are more likely to have more punitive attitudes than single individuals.
- People with a higher fear of crime are more likely to have greater punitive attitudes.
- People with conservative orientations hold more punitive sentencing attitudes than those who share more liberal values.

INTRODUCTION

Governments introduce laws and rules in order to regulate social, economic and political life. However, not every citizen obeys these rules: some people find it more attractive to break the law than to abide by it. In order to punish the law breakers, states maintain law enforcement institutions. Such institutions seek to trigger law compliance through deterrence: the assumption behind them is that for most individuals the threat of punishment would usually be higher than the benefits of crime. However, law enforcement through deterrence comes at a price. It may be the case that reaching a sufficiently high level of threat of punishment that would generate compliance is simply out of reach. It may be unachievable and also undesirable either because of the direct costs involved (enforcement costs may be too high) or because of the indirect costs, which would impede the normal functioning of a regulatory regime by placing too much control upon those who are subject to the rules (Elffers H., Verboon P, Huisman W., 2006). Many academics and policymakers believe that this alone is a good reason to reconsider the ideas on which crime-controlling policies are based and to find new ways to ensure legal compliance.

The FIDUCIA[279] research project rests on the idea that the main driver of social regulation is trust in justice. The project incorporates concepts of trust in justice, fears of crime and punitive attitudes. Trust (*fiducia* in Latin) in justice is critically important for social regulation because it fosters public acceptance of the legitimacy of judicial institutions, thus encouraging a law-abiding society. The research project investigates whether a change of direction in criminal policy — from deterrence strategies and penal populism to procedural justice and trust-based policy — is desirable, and if so, under what conditions. The purpose of this report is to provide an overview of the existing literature on trust in justice, fear of crime and attitudes towards punishment.

1. TRUST IN JUSTICE

Trust is important in our lives because we live in social networks and constantly interact with other people. We (or others) always depend on someone else's actions (or inactions). Trust, therefore, becomes vital when we want to avoid uncertainty about the behaviour of others. By using trust to assess the likelihood of possible future events, we are able to operate in social situations that would otherwise appear overwhelmingly uncertain, especially when it comes to the motivations, intentions and possible actions of others. Trust also involves a personal commitment to live according to certain moral norms and, at the same time, an expectation that others would act in the same way. In short, trust reduces the complexity of our social world (Giddens, 1991; Luhmann, 1979, 1988) and it becomes highly relevant in face-to-face encounters with individuals and organisations, institutions and the state.

In the academic literature the concept of trust goes hand in hand with confidence and is the equivalent of confidence in the legal world. Indeed, some languages use a single word for both concepts.

Trust can take different forms — it may take the form of our expectations from others as well as expectations with regard to social and political institutions and processes. It follows that it is important to differentiate between 'institutional trust' (which is trust placed in institutions) and 'encounter-based interpersonal trust' (which is trust based in individuals). In this vein, trust in the judicial system can be described as the belief that the police and courts have good intentions and are competent to do what citizens expect them to do.

279. FIDUCIA – New European Crimes and Trust-based Policy (duration: 1/2/2012-31/1/2015) is a collaborative research project funded under the Socio-Economic sciences and Humanities Programme of the 7th Framework Programme for research of the European Union.

Researchers, policymakers and government representatives stress that public trust in the criminal justice system is an important factor and should be taken into account when considering and implementing criminal justice policies. Public confidence is also relevant with respect to the credibility and the effectiveness of the criminal justice system (Jokinen et al., 2009). In addition, research conducted within the Euro-Justis project demonstrated that the confidence that professionals (judges, prosecutors, police officers and policymakers) and politicians express in the justice system is significant for the effectiveness of criminal justice policies (Jokinen et al., 2009). This research also demonstrated that the measures of trust in the criminal justice system are strongly associated with public confidence in democracy, the political decision-making process and the justice system in general. If people do not have faith in the proper working of the legislative and executive branches of government, it is less likely that they will trust the criminal justice system.

Research projects on crime usually pose the question of why people break the law. However, the focus of FIDUCIA is on why people obey the law. This opens up the possibility of infusing criminal justice systems with a normative element so that people comply with the law not merely because it is in their self-interest but also because they think it is the right thing to do (Jokinen et al., 2009). The FIDUCIA project aims to establish the limits of this trust-based approach to social regulation, with particular reference to emerging forms of European criminality. The main issues explored are the extent to which normative systems of social control 'travel' with people as they move beyond their own countries and cultures, and the extent to which they generalize from their home judicial systems to that of other countries.

1.1. Institutional trust

Trust in the criminal justice system as institutional trust can be regarded as a 'system-level' attitude of the public towards the activities of the criminal justice system. Therefore, institutional trust is the implicit or explicit belief that legal institutions behave effectively, fairly and represent the interests and express the values of the community — whether locally or nationally (Jokinen et al., 2009).

The criminal justice system is made up of institutions with different functions. Trust in the separate institutions of the police and the criminal courts involves confidence that officers have the right motives and are technically competent in the roles assigned to them to carry out their fiduciary obligations; that is, in certain situations, by placing the interests of others above their own (Barber, 1983; see also Stoutland, 2001). At the same time, surveys also show discrepancies between public knowledge about the functions of legal institutions and the functions that these institutions perform in reality. When inquiring about what people know of the work of the courts and sentencing procedures, most survey respondents report very little knowledge. Unlike policing, these areas of criminal justice are generally invisible to most people unless they become involved as either a victim or witness. Research conducted in a large sample of countries has demonstrated that public understanding of the sentencing process and sentencing practices is poor (Roberts and Stalans, 2000).

A number of previous surveys[280] have asked the public to express their level of confidence in the criminal justice system but without specifying any particular element or branch. The problem with this approach is that it leaves the respondent free to consider any aspect of criminal justice and then express a level of confidence. Confidence in a criminal justice system (or any other public service, such as health care) is likely to vary depending on the specific function the respondent is asked about. If people are more likely to consider a particular function when asked about the system as a

280. Questions about trust in the criminal justice system in general were asked in a series of surveys: British Crime Survey, Standard Eurobarometer, World Value survey, European Value survey, Australian Survey of Social Attitudes.

whole, confidence levels will reflect this (MORI, 2003). Pilot survey results of the Euro-Justis project (2010) showed that public confidence in the police in the three surveyed countries (Bulgaria, Italy and Lithuania) is higher than confidence in the courts. These findings are also reflected in the results of the last five European Social Surveys (2002, 2004, 2006, 2008, and 2010) where confidence in the police was consistently higher than in other parts of the criminal justice system (Van Damme, 2010).

The horrendous terror attacks in Norway committed by Anders Breivik on 22 July 2011, in which 77 people were killed, constituted an event that could have potentially influenced attitudes toward the police. In this sense, post-attack trends in public trust towards the police in Norway are of great interest for criminologists. Egge, Strype and Thomassen (2012) investigated this issue with three subsequent surveys. They found that immediately after the attacks, the Norwegian public viewed the police even more favourably than before. This applies to the general trust level, as well as to more specific views regarding police actions and judgements during the terror incidents. However, this initial positive effect remained temporary, and months later the level of public trust in the police was more in line with that of previous years, although still slightly above the general trust level prevailing before the incidents.

Another particular aspect often analysed in academic literature is the distinction that people make between local and national issues: which level is of greater significance for trust in justice? We tend to think that public attitudes to local issues are more important. What people know about crime across an entire country and the workings of the criminal justice system is informed by the media and is indirect in nature. Public confidence in the performance of local institutions is far more likely to reflect direct experience. Moreover, feelings of safety are determined more by perceptions of crime in a particular neighbourhood than views on national crime trends.

Surveys conducted in the UK and other countries in recent decades (Smith, 2010; Jones et al., 2008) have demonstrated a greater discrepancy between public knowledge about particular categories of crime and how successful the institutions are in dealing with them in reality. For instance, in 2005 a MORI poll found that more than four fifths of the public believed that violent crime was increasing (Ipsos MORI, 2007). Similar misperceptions exist when it comes to trends that involve specific offences, particularly the most serious violent crimes: when the public was asked about trends in murder statistics, only some 5 per cent were correct. Most respondents believed that the number of murders was increasing, when in fact it was not the case (Mitchell and Roberts, 2011).

In addition to the above, there also seems to be a clear distinction between perceptions of effectiveness and fairness of the criminal justice system. People are significantly more likely to have more confidence in the fairness of the system than in its effectiveness. However, when longer time periods are examined, trust levels in the effectiveness of the system remain relatively stable in most countries (Smith, 2010; Van de Valle, 2009; Scribbins et al. 2010).

1.2. Encounter-based interperson al trust

Contrary to institutional trust, encounter-based interpersonal trust turns the focus on the dynamic and social nature of people's encounters with individual representatives of the police and the criminal justice system. Hough argues that interpersonal trust refers to the implicit or explicit belief of individuals that one's own encounters with police officers, court officials and others will proceed predictably according to the assumed role and function of the justice system — that is that they will act fairly, effectively, respectfully and will ultimately represent the rule of law and moral foundations

of society (Jokinen et al., 2009). Such trust implies a certain reciprocity or expectation of action on behalf of the actor as well as the representative of the criminal justice system. For example, if a person witnesses a crime, he or she is more likely to act appropriately (report the crime to the police) because of his or her belief that representatives of the criminal justice system will also act appropriately. Equally, if a person is stopped by the police, he or she is likely to expect them to be effective and fair and would act accordingly (Hough, Roberts, 2012).

Encounter-based trust is also more volatile than institutional trust. A single negative experience might severely damage trust in the fairness of the police when it comes to future interactions even though the negative experience may have much less impact on institutional trust.

1.3. Generalised trust

Besides interpersonal and institutional trust, researchers also identify another form of trust, which is generalised trust. Generalised trust expresses a psychological and moral attitude towards other people and governmental structures in general rather than the trust that certain people or state structures will act in a particular way (Smith, Mateju, 2009). In spite of the fact that generalised trust is not directly associated with criminal justice policies, it plays a significant role in shaping public perceptions of crime, effectiveness of criminal justice institutions, the morals of government and its alignment with the values of its citizens. According to Tonry (2009), moderate penal policies and low imprisonment rates are associated with low levels of income inequality, high levels of trust and legitimacy, strong welfare states, professionalised as opposed to politicized criminal justice systems and consensual rather than conflictual political cultures (Tonry, 2009). This encourages us to further examine the links between generalised trust and trust in the police or other criminal justice institutions.

The willingness to report crimes to the police can also be seen from the perspective of generalized trust. Social capital and generalised trust are closely linked and are interesting concepts in this context because their connection to the question of informal and formal social control is apparent. Trust in the police and generalised trust are factors that probably affect whether a victim decides to report a crime or not. Most of the literature concerning the relationship between citizens and the police assumes that the level of trust in the police reflects the actions of the police. In other words, it assumes that the police can either increase or reduce trust through their own behaviour (Bradford et al., 2009; Skogan, 2005, 2006; Tyler, 2001; Tyler and Fagan, 2008). However, there are also some empirical findings that question this hypothesis. Research conducted in Finland by Kaariainen and Siren (2011) produced different results. They found that higher general trust is associated with lower number of crime reports.

According to Mateju, who explored the relationship between generalised trust and perceptions of corruption, generalised trust is the opposite of reciprocal trust, which is 'mutually beneficial exchanges' or trust based on social connections and informal networks that enable people on different sides of a transaction to achieve particular goals. While generalised trust is widespread in advanced democracies, reciprocal trust is widespread in post-communist societies (Smith, Mateju, 2009). These differences are particularly relevant in the EU context. Although Smith's and Mateju's research aimed to distinguish between forms of trust associated with perceptions of corruption in the Czech Republic, their results can be relevant for discussions on trust in criminal justice systems in general.

1.4. Fairness, effectiveness and value/moral alignment

Recent conceptual and empirical work has begun to draw on US literature on procedural justice (Tyler 1990; Tyler and Huo 2002, Reisig et al. 2007) as well as on earlier studies conducted in the UK (FitzGerald et al. 2002). These present the idea that public opinion on the police is multi-faceted, containing distinct — even potentially contradictory — strands of thought. Trust covers judgements about police effectiveness, police engagement with and commitment to the community, and fairness when dealing with individuals. These judgements have been found to be empirically separable, although in some sense they combine with other ideas to produce an overall attitude or orientation (Bradford, Jackson and Stanko, 2009; Bradford and Jackson, 2009).

Many researchers question the effectiveness of those performance metrics that are used broadly to assess police agencies. Gilmour describes it as 'return to a centralised rational–legal bureaucratic model of policing' (Gilmour, 2008; p. 57) and a move away from a more democratic model driven by the community's wishes. Under a regime of strict performance management, accountability is transferred from the police/public to the police/government. This also implies that the management of the criminal justice system becomes less and less trust-based (Weisburd et al., 2003, Weisburd et al., 2011).

However, as Gilmour (2008) argues, a sense of shared motivation and goals may, as a result, be central to trust in the police. This puts emphasis on fairness and engagement over effectiveness, which stands in contrast to 'traditional' police performance management practices; these have held crime, arrest and conviction rates as well as more service-related concerns such as response times, to be the core measures of police performance. Such factors as conviction rates and the police's ability to return stolen property are, and should be, important in building both institutional and encounter-based interpersonal trust. However, empirical evidence suggests that (perhaps most strongly at the encounter-based level) engagement and fairness are even more important. Furthermore, it is apparent that concerns about the level of crime, even fear of crime itself, have only a minor association with opinions on the police (Jackson et al., 2009). This could perhaps simply mean that crime is not regarded as the 'fault' of the police and that people may assess the effectiveness of the police in other ways.

Public opinion about the courts is formulated in different ways than the opinion about the police. Empirical evidence suggests that the courts, and not the police, are usually blamed for perceived increases in crime. As a result, public opinion on the courts is generally far more negative than on the police (Roberts and Hough, 2005). Inasmuch as it is thought to be the job of the courts to prevent crime, it may, therefore, be that assessments of effectiveness are more important in relation to some criminal justice agencies than others.

Effectiveness and fairness may, therefore, be conceptually and empirically separate. Systems of justice can be effective (in controlling crime, in responding to emergencies) without being particularly fair; and they can be fair without being particularly effective (Hough et al., 2009).

We should note that the works of Tyler, Huo, Reisig and FitzGerald (Tyler and Huo, 2002; Tyler, 2007; Tyler 2010, Reisig et al. 2007, FitzGerald et al. 2002) have distinguished between distributive fairness and procedural justice. Distributive fairness addresses public belief about the fairness with which services are distributed, whether the police provide help to all groups equally or whether, following interaction with the police, people typically get what they deserve. Discussing the US findings, Sarat (1977) argues that the demand for equal treatment is a core theme running through public evaluations of the police and courts. He suggests that the '... perception of unequal treatment is the single most important source of popular dissatisfaction

with the American legal system' (p. 434). Based on survey results, Sarat claims that Americans 'believe that the ideal of equal protection, which epitomizes what they find most valuable in their legal system, is betrayed by police, lawyers, judges, and other legal officials' (p. 434).

By contrast, procedural justice refers to perceptions of fairness related to the ways in which procedures, independent of their specific outcomes, are conducted. Tyler (1990; Lind and Tyler, 1988) found that the concerns of individuals about fair processes are far broader than a simple emphasis on self-interest. People care about the type of authority exercising power as well as its motives for doing so, and they care about how they are treated and whether their rights are respected. Internalised moral norms are not just additional incentives traded against instrumental, tangible incentives; rather, these normative moral attitudes act as a moral filter that precludes even weighing the costs and benefits of the action (Kroneberg, Heintze, Mehlkop, 2010).

1.5. Procedural justice and social motivation

Successful social regulation needs to reflect the fact that most people behave well to others most of the time out of normative rather than instrumental considerations. In order to be effective, formal systems of social control in general — and the criminal justice system in particular — need to operate in harmony with, and in support of, the informal systems of norms and values that guide most of human behaviour.

There is growing interest in these ideas about 'normative compliance with the law' (Bottoms, 2002) or 'social motivation' (Tyler, 2010). These works recognize the fact that formal criminal justice is only one of many possible systems of social control, most of which have a significant normative dimension.

So far, crime-control policies have given insufficient attention to why people comply with the law, and too much attention to why people break it. The imbalance is important because survey questions inquiring about the motivation for breaking the law tend to yield answers framed within the boundaries of simple crime control models. They tend to imply approaches to crime control that are designed to secure instrumental compliance — that is, where reasons for breaking the law are based on calculations of self interest.

By contrast, questions about compliance yield answers that recognize the interplay between formal and informal systems of social control, and in particular the normative dimensions in people's orientation to the law. Normative compliance with the law occurs when people feel a moral or ethical obligation or commitment to do so. Procedural justice theories, which are concerned with people's compliance with institutional authority, propose specific relationships between how people are treated by criminal justice institutions, trust in these institutions, the legitimacy granted by the policed to those institutions and their authority to command, and people's willingness to obey the police and comply with the law.

1.6. Legitimacy

Legitimacy can be defined as expressed consent, normative justification of power and legality of action. According to this, perceptions of legitimacy are being captured in surveys on accountability, transparency, democratic principles, corruption and so forth. They focus on whether the policed see the police as legitimate. The main objective is to research the ability of a criminal justice system to command legitimacy in the eyes of the public.

'Perceived legitimacy' exists when 'the policed' regard the authorities as having

earned an entitlement to command. If people willingly offer their obedience to systems of authority that command legitimacy, questions about the 'drivers' of legitimacy become of central importance to the formulation of policy.

Empirical research, mostly conducted in North America, supports procedural justice theories (Tyler and Huo, 2002; Tyler, 2007; Tyler 2010). Contrasting instrumental and normative models of compliance, Tyler argues that normative compliance is economically more viable, and is more stable over time than instrumental compliance. The latter, at least in the US context, carries an increasingly unaffordable social and fiscal cost.

Based on various public opinion surveys, including the pilot survey of the Euro-Justis project, public trust in the fairness of the justice system seems to be more significant in shaping its legitimacy than perceptions about its effectiveness (Galev, Yordanova, 2011). Tyler's findings suggest that procedural justice — that is, fair and respectful treatment that 'follows the rules' — is more important to people than obtaining outcomes that they regard either as fair or favourable to themselves. In other words, in encounters with the police — or other authorities — it is the quality of treatment received that is more important than the objective outcome.

However, there are other more complex dimensions of legitimacy. As Beetham (1991) argued, people confer legitimacy on institutions not simply because the latter adhere to standards of good behaviour, but also because they regard the institutions as representing particular normative and ethical frameworks. Conferring legitimacy on an institution is therefore also an act based on the expression of shared values, of a broad 'moral alignment'. Institutional legitimacy thus is also based on public perceptions that the police and the policed share broadly similar moral positions. This is not to say that in order to be considered legitimate, the police must enforce laws that all citizens agree with. Instead, the police must demonstrate 'moral authority', embodying a shared sense of right and wrong. This does not require the police to be moral or to demonstrate moral superiority but requires them to negotiate order in a way that maximizes consent.

According to a 'process-based policing' model (Sunshine & Tyler, 2003) legitimacy generates compliance with the law because people grant society (and its justice system) the right to dictate appropriate ways to behave. While we may disagree with some of these laws, we nevertheless obey them because we think that complying with the authority that enacted them is the right thing to do.

Furthermore, if individuals think that criminal justice authorities lack 'moral fibre' (by behaving in manifestly unfair ways, for example) then the public may become cynical about the law. If the police or criminal courts are seen to act in an unjust way, then this can generate public cynicism: 'if they can behave however they please and ignore the rules, then so can I.' If the police abuse their powers and wield authority in unfair ways, this does not only negatively affect people's sense of obligation, but also damages public perceptions of their moral authority and, therefore, the moral right of the law to prescribe appropriate behaviour. In the context of new criminal behaviours, this may be especially important.

An effective and fair criminal justice system needs the public to view new forms of criminalised behaviour as justifiably illegal, to view institutions of justice as legitimate, and, therefore, to believe that it is morally just to obey the law. A change of direction in European criminal policy, the concept of 'trust-based' policy, the evidence base relating to procedural justice is now reaching a stage of development where it offers a convincing alternative, or at least a supplement, to approaches to regulation that look entirely to instrumental compliance and deterrence strategies.

1.7. Measuring trust in justice

There are a number of national and supranational surveys measuring trust in criminal justice systems — the police and judiciary — that try to assess the punitive attitudes of societies through victimological surveys. Some of these include questions about trust in the criminal justice system or institutions of justice systems in particular.

The most important surveys are the International Crime Victims survey (ICVS), EUROBAROMETER, the International Social Survey Programme (ISSP), the European Social Survey (ESS), the European Values Study (EVS) and the World Values Survey (WVS), the European Crime and Safety Survey (EU ICS) and surveys conducted by Transparency International. Questions focusing on trust in justice or related issues vary in all of these surveys and not a single survey is capable of assessing trust, fairness, and effectiveness, willingness to support the police, and engagement in criminal justice processes or perceived legitimacy in depth. Therefore, a set of indicators from numerous surveys must be explored.

Defining the scientific indicators of trust in the criminal justice system was the main goal of the Euro-Justis project. After a long period of research, a set of different indicators was developed and tested in surveys in Lithuania, Italy and Bulgaria. Later, a 45-item module in Round 5 of the European Social Survey was processed. In order to establish how levels of trust, legitimacy, cooperation and compliance vary in Europe, a set of indicators based upon a comprehensive conceptual scheme has been developed (Jackson et al., 2011):

- Primary indicators (level 1) constitute a small number of lead survey measures of trust and legitimacy.
- Secondary indicators (level 2) support the primary indicators by providing greater detail using surveyed measures of the various dimensions of trust and legitimacy.
- Country-based indicators (level 3) highlight local specifics and help interpret survey data. The focus of this paper is on the two main constructs: trust in the police and the criminal courts, and perceptions of the legitimacy of the police and criminal courts.

Primary indicators covered confidence in the police and courts. Secondary indicators were developed to measure the concepts of trust in police effectiveness, and distributive and procedural fairness; trust in court effectiveness and distributive and procedural fairness; perceived legitimacy and legality of police and court action; cooperation with the police; compliance with the law; perceived risk of sanctions; perceived legitimacy of the law; contact with the police and punitive attitudes.

The topline results of Round 5 of the European Social Survey summarised by Jackson et al. (2011) revealed that the Nordic countries are the most trusting of their police and courts. Moreover, citizens of these countries believe that their institutions are legitimate holders of power and authority, whereas the Eastern, and to a certain extent, the Southern European countries tend to be less trusting. Based on the assumption that people assess the trustworthiness of institutions along three major dimensions (institutional effectiveness, procedural fairness and distributive fairness), the fifth round of the ESS will allow for researchers to test 'whether normative factors carry more weight than instrumental ones in shaping compliance with the law' (Jackson et. al, 2011, p. 11). This line of inquiry is one of the key goals of the FIDUCIA project.

2. FEAR OF CRIME

This chapter focuses on one of the most important contemporary criminological problems: the fear of crime. Fear of crime emerged as an issue four decades ago and became of major importance in political, professional and public discourse. Many practitioners consider that fear of crime is no less significant than crime itself. Here, we discuss the gravity of this issue in modern society, provide major theoretical models of fear of crime, analyse the role that fear of crime plays in political discourse and explain its manifestation in mass media. At the same time, it is important to emphasize that the role that the media play in discourses about the fear of crime is ambiguous since 'the fear of crime feedback loop' through which fear of crime is spread, includes other social agents as well. Thus, we may discuss a certain relationship between the mass media and fears about crime but not a direct causal link between the two.

2.1. Fear of crime in contemporary society

The concept of fear of crime is relatively new in academic discussions. Before the 1960s, it did not appear in political, public or social science discourses. According to Ditton and Farrall (2000) (in Lee, 2007; p. 7), it was first mentioned in 1967. One of the key questions which criminologists tried to answer was whether fear of crime was actually experienced or expressed before 1967, and why the means for understanding and identifying it only appeared afterwards. Criminologists raised serious doubts about the claim that before 1967 the public did not face concerns about crime and victimisation. The concept of fear of crime and, accordingly, the discourse of fear of crime may not have existed before, but criminologists claim that there are plenty of historical episodes that can be attributed to it.

Lee (2007) argues that the modern concept of fear of crime is the product of governmental and political rationality, the coincidence of certain social, cultural and historical circumstances and public discussion. The conditions that have created these circumstances made fear of crime a criminological problem, which, in turn, became a topic for academic discussion. Thus, from the second half of the 1960s fear of crime appeared as a social science category, as well as a legitimate cultural topic.

Most scholarly works written in this topic agree that the concept of fear of crime is difficult to define because it is closely related to a variety of other fears and anxieties. Researchers acknowledge the complexity of this concept and this is the reason why it has become the object of discourse in different academic disciplines. Sage Dictionary of Criminology defines fear of crime as a rational or irrational state of fear or anxiety caused by the threat of criminal victimisation (McLaughlin, Muncie, 2006).

The problem of fear of crime is accentuated because modern life in complex, urbanised, anonymous societies requires a certain amount of trust in strangers. According to various criminological studies, 'strangers' are one of the most common sources of fear in the public's imagination. Anxieties over crimes committed by 'dangerous strangers' and/or a belief in high levels of crime can be disruptive to daily life.

It is argued that fear of crime promotes physical and psychological isolation from community life. It weakens informal social control systems as well as an individual's or community's ability to solve emerging problems. This creates an environment for other crimes and social disorders. Fear of crime also violates one of the essential guarantors of social order: public trust in the criminal justice system and the state's ability to protect its citizens. All of this ultimately leads to public demands for a more stringent criminal justice policy and creates mass demand for private security and protection measures (McLaughlin, Muncie, 2006).

Fear of crime usually reflects how the crime situation (crime rates, danger etc.) is perceived by the public. The fear of an individual is greatly affected by his or her own perception of vulnerability, which usually comes from anxiety arising from social and cultural changes — particularly the pace and nature of such changes. For instance, criminological studies have shown that declining sense of neighbourliness as well as changes in the racial and ethnic characteristics of a neighbourhood are two possible sources of fear and anxiety. It is also a widely held view that people who had already become victims would be more afraid of crime. However, research has shown that there is no direct relationship between the risk of victimisation and the fear of crime (McLaughlin, Muncie, 2006; p. 165). However, among certain segments of the society, fear of crime is totally disproportionate to any actual risk of becoming a victim, although some criminological studies, which were based on qualitative interviews with women, revealed that fears of crime, particularly with regard to sexual violence, were not exaggerated. On the contrary, women are reasonably and quite clearly aware of their vulnerability (McLaughlin, Muncie, 2006).

Another issue that needs a little more discussion, in order to understand the nature of fear of crime as a social problem, is its source. We have already mentioned that fear of crime can be evoked by direct experience, for instance victimisation. It may also be affected by secondary knowledge, conveyed by family, friends or acquaintances as well as various lobbyists representing the interests of victims, social campaigns, speeches by senior police officers and politicians, and the operations of private security firms and insurance companies (McLaughlin, Muncie, 2006). In this context, the role of the mass media also deserves attention. The media sources spread fear of crime by giving a lot of attention to violent and sexual crimes, which they turn into a sensation, as well as they present news of crime in an intense way, all of which serve to capture the public's attention. Moreover, the media may create panic around some groups of offenders or certain criminal acts.

However, academic literature generally distinguishes between two major factors, which are discussed as the causes of fear of crime — the perceived risk and experienced behavioural constraints. In turn, critics of this conceptualisation of fear of crime argue that the focus of research should not be merely on the fear of crime but on the broader construct: the threat of victimisation. Regarding the threat of victimisation, three major components are generally identified: emotional (fear of crime), cognitive (perceived risk) and behavioural (behavioural constraints). Thus, fear of crime is not the consequence of perceived risk and experienced behavioural constraints but is rather part of a mutual interaction with the latter factors.

2.2. Theoretical models of fear of crime

In criminology literature researchers usually identify five main causes of fear of crime: (1) crime causes fear, (2) criminal victimisation causes fear, (3) imagined victimisation causes fear, (4) social disorganisation causes fear, (5) strong social structure suppresses fear and socialisation differences cause different fears (Vanderveen, 2006). In this section we discuss each model.

The first model — crime causes fear which directly links crime with the emergence of fear — is the oldest. The main tenet of this model is that crime is related to the emergence of fear. It is, therefore, argued that changes in crime rates can modify fears. In this case, crimes are generally perceived in the context of criminal victimisation. At the same time it is important to emphasize that crime may be either the cause or the consequence of fear.

Models asserting that crime or victimisation causes fear are quite popular explana-

tions, however, empirical studies contradict these conclusions (Vanderveen, 2006; p. 41). Thus the relationship between victimisation and fear of crime remains uncertain. This model is characterised by the so-called paradox of fear of victimisation which implies that individuals at a lower risk of falling victim to crime are prone to greater fear of crime than those with a higher risk. Therefore, women and elderly people are more afraid while men and younger people, who are more at risk of crime, are less afraid. However, this paradox has been the subject of criticism which has led to several new insights.

The imagined victimisation model is related to indirect victimisation or others falling victim to crime — notably 'significant others', for instance people whom the individual knows or fictional television characters. Criminologists believe that indirect victimisation can lead to the emergence of fear. Thus, the mere thought of falling victim to crime is enough to generate fear of crime. This model emphasises cognitive processes — those related to the knowledge one possesses about a criminal situation —, and mostly focuses on aspects of vulnerability and risk perception. According to Vanderveen, a number of criminological studies have addressed the question of whether certain groups of people, such as women, feel a greater risk of falling victim to crime than others, while other researches linked fear of crime to a sense of vulnerability (Vanderveen, 2007; p. 42). It is argued that women's fear of victimisation is mainly caused by sexual offences and mostly the fear of becoming victims of sexual abuse.

Meanwhile, questions about why people differ in their sense of vulnerability or fear of becoming victims of abuse and the role that these differences play are key issues to be researched. Thus, the imagined victimisation model tries to explain fear of crime by analysing processes which take place at the cognitive level of individuals. The works of Crank, Giacomazzi, and Heck (2003) (in Vanderveen, 2006; p. 43) distinguish between 'the social disorganisation/broken windows model' and the 'model of social integration'. The social disorganisation model posits that crime and the weakening of community relations causes fear and as a consequence the physical and social disorganisation of the environment takes place. This, in turn, increases fear of crime or the awareness of the threat of becoming a crime victim. Thus, broken windows or other signs of social disorganisation create fear of crime.

Levels of social disorganisation and antisocial behaviour are associated with social structural aspects of the community. It is argued that a more rigid social structure is able to resist disorder. This model is based on assumptions about social disorganisation theory which holds that the community plays a vital role in preventing its members from violating the law. The community, therefore, performs an integrating function which depends on the size, density and coverage of an existing relationship network. The concept of collective impact — the ability to effectively address community problems and control citizens in order to maintain public order — is important.

It follows that a stronger social structure reduces fear, while anonymity, interpersonal alienation and distrust are associated with an increased sense of fear. The positive impact of the strong social structure is also observed in the studies on quality of life in communities, in which such community characteristics as crime and social ties are associated with the public's sense of satisfaction (Vanderveen, 2006).

Finally, the fifth model explains the differences in feelings of fear between men and women. The socialisation model implies that the differences in men's and women's socialisation lead to different fears and their manifestation. Boys are taught courage, endurance and aggression, while girls are taught to be passive and to restrict their behaviour. Moreover, it is argued that women overemphasize, while men only moderately express or even underplay, their feelings of fear. Vanderveen emphasizes that some of the surveys on social fears show that women do not suffer from a greater

degree of fear, but they experience more intense fear in situations where men appear in a stereotypical (negative) way. In other words, women fear and men are feared (Vanderveen, 2006; pp. 44–45).

The socialisation model, as it further develops the concept of victimisation, particularly emphasizes the power relationships and experiences from sexual crime and harassment that women face in their daily lives. A common assumption in our culture is that sexual violence is everywhere so women should be aware of the dangers that threaten them. Conversely, criminologists argue that this presumption has a clear, but vague social function: to help socially control the lives of women. Thus, 'provocative clothing', late-night walks and other ideas are constructed by society and reinforced by our culture. In other words, the socialisation model shows that women are socialized into fear and to behave in a more reserved way while men are taught to be brave and to take risks. In this case, it is important to note that one of the most powerful channels that disseminate these cultural narratives in contemporary society is the mass media.

2.3. Fear of crime and political discourse

In order to better understand fear of crime, it is important to understand what role they play in political discourse, which is closely related to the public discourse. In different judicial systems, it has become a priority for criminal justice policymakers to reduce the public's fear of crime. Many countries have initiated government-funded social campaigns, which were supposed to convince members of the society that their fears were unreasonable and irrational. For example, the UK has made a significant effort to persuade the media to become more responsible in reporting news of crime. At the same time, criminologists have designed situational crime prevention strategies for potential victims, as well as risk areas. Furthermore, local authorities in Britain, created community safety strategies, which aim to protect citizens from criminal and antisocial behaviour, enabling them to live without fear of becoming victims of crime. These strategies aim to increase the safety of particularly vulnerable members of the community. At the same time, police forces used aggressive but effective strategies to shift the burden of fear from potential victims to offenders (Lee, 2007; pp. 104-107).

When it became a governmental problem, fear of crime eventually became politicised with many academics and politicians finding that it was as important as crime itself. Walklate (1995) (in Lee, 2007; p. 4) argues that in the 1980s the appearance of the crime victim image became a foundation for policymaking, which has influenced the emergence of new political and theoretical debates as well as inspired new areas of research.

Thus, victimisation has become an important 'dependent variable' in criminology studies. Academic literature on fear of crime has become a standalone area of research which has gradually included almost every socio-economic, ethnic and age group as well as both gender categories. Most discussions in this area have revolved around the issues of defining fear of crime, its measurement, identification, and on reducing its causes. Various theoretical and methodological perspectives have been applied. For instance, in order to determine the causes of fear of crime, a comprehensive list of different factors has been identified: from psychological to social, from economic to geographic, and from symbolic to factual. Criminologists still debate how to identify and measure those factors and fear of crime itself. At the policy level, fear of crime is important to understand to the extent that helps inform the political decision-making process (Lee, 2007).

Thus, controversy over the measurement of fear of crime was partly influenced by the fact that there is no specific definition of the fear of crime. According to Hale (1996)

(in Lee, 2007; p. 5), much of the debate on fear is often caused by uncertainty: how to separate risk assessment and the feelings of anxiety and fear. Some criminologists claim that while fear of crime is not yet defined, it is used more often than the concept of 'anxiety'. Ditton *et al.* (1999) (*ibid*) notes that while the techniques for measuring fear of crime have improved, no major conceptual changes have taken place. According to Farrall *et al.* (1997) (*ibid*), empirical research on fear of crime reflects how the problem is studied rather than what fear of crime actually is.

According to Sparks (1992) (in Lee, 2007; p. 6), fear of crime did not only become the cause of 'empirical disagreements', but also the object for political and theoretical disputes. Weatherburn *et al.* (1996) (*ibid*) claims that public opinion over the risk of criminal victimisation has more influence on the state budget for law enforcement than the actual risk of crime itself. Thus, fear of crime can shape individual attitudes and, consequently, decisions on broader issues of crime and it can also influence who becomes criminalised. At the same time, fear can be used to 'manipulate' the criminal justice system.

It is thought that the majority of people are mostly afraid of suspicious strangers, unpredictable and incomprehensible 'others' and criminals who randomly choose their victims simply on the basis of their availability and vulnerability. In this case, one can see that the fear of crime is irrational. Displaying similar trends, statistics from different countries demonstrate that the most serious crimes occur in the family or among friends or acquaintances. According to Pratt (in Lee, 2007; p. 6), 'threatening forces of modernity' and neoliberalism are making the horizons of life appear infinite and more attractive than the limited opportunities of the welfare era. However, together with the erosion of traditional support structures (families, for instance), this leads to new fears and doubts.

Vanderveen (2006) argues that fear of crime, as an element of public opinion, is a political symbol and, thus, has an instrumental role in politics. However, in this dynamic interaction the media and law enforcement institutions play an active role. Criminologists emphasize that public opinion occupies one of the most important places in the political discourse. Usually, the media play a central role here as they provide a basis for the legitimisation of political and legislative power. There is no doubt about the importance of public opinion in the context of a democratic regime: in democracies political leaders must take an interest in what the public thinks. For instance, Smoke claims that the importance of public attitude towards foreign policy and security issues is evident (Smoke, 1996; p. 24). Thus, a democratic system provides the public with the means to ensure that the government takes its opinion into account. Although public opinion is often contrary to the views of political representatives, Smoke argues that governments cannot simply ignore it, since now the public is able strongly to influence them (Smoke, 1996; p 25). In other words, public opinion has gained a key role in politics and appealing to it has become an essential element of political discourse.

One of the most common ways to detect public opinion is through opinion polls. Criminologists reviewing historical data from surveys on fear of crime discovered that anxiety was originally associated with crime statistics and victim surveys — surveys which were carried out by government institutions. This clearly demonstrated the instrumental role of crime statistics and criminological surveys, as well as their influence on fear of crime. From this perspective, data allows policymakers to 'calculate and control' or to 'explain and mitigate' (Vanderveen, 2006). In other words, statistical data and survey results led to the emergence of the concept of 'fear of crime', and in spite of the expressed criticism, it performs an essential and often instrumental role.

In this case, the instrumental role shows the attention which the authorities, governmental and other institutions, pay to fear of crime. Governmental institutions assign a certain amount of their time and finances towards reducing public fear and this is usually done through various political and practical tools which are subsequently assessed for their effectiveness. After the examination of several of these measures, Vanderveen (2006) concluded that they do not usually influence fear of crime, but that governmental institutions (local, regional and national) continue to apply them anyway.

As Chevigny notes, in democratic countries, particularly in the West, politicians increasingly appeal to fear of crime during election campaigns in order to attract attention (Chevigny, 2003). This is particularly true for countries where elections are held to fill the highest posts in government, issues of economic inequality are under constant discussion and where the state's willingness or ability to provide social services is limited (Chevigny, 2003; p. 77). Under these conditions, there is an urge to find the problem and attract the attention of all social groups. Hence, crime and its associated fear of insecurity are often raised and sometimes overemphasized in political rhetoric to mobilize public support (*ibid*).

2.4. Mass media and fear of crime

Fear of crime plays an important role not only in political debate but also in public discourse which are, of course, closely related. Fear, as well as actual crime itself, is a well-analysed and discussed topic in the media and criminologists claim that its emergence is undoubtedly associated with its rise in the political sphere. At the same time, the media are one of the main channels of communication and dissemination for both political parties and public authorities. The participation of politicians in this process is not new. Barker (1998) (in Vanderveen, 2006; p. 203) shows that even in 18th-century England there was a belief in the influence that the print media had over the public. Barker examined the relationship between the print media, politicians and readers and analysed how the newspapers of that period shaped public opinion. According to Farge (1994) (*ibid*), the press, on the one hand, informs the public about what is happening in the political arena, on the other hand the media also express opinions about political issues and, thus, shape public opinion and use specific words and phrases to appear close to their readership — for instance often referring to their audiences as 'we'.

In general, it is a widely held view that the media have an impact on their audience, thus, shaping public opinion, and, in turn, public policy. Regarding this, Ericson, Lamb and Chan (1991) argued that the media, similarly to law enforcement agencies, perform a role that preserves order. When reporting on law enforcement and criminal justice issues, the media do not only reflect conventional public opinion, but also actively reproduce social and moral order. However, social and moral values are not static and the media's reproduction of social order is determined by their interaction with their audiences itself.

On the one hand, the mass media shape public opinion and reproduce the social norms of society. On the other hand, since they reflect public opinion, the media are also representative of the public. In addition, the media participate in framing and adjusting the agendas of politicians and policymakers. For instance, in his analysis of the socio-political context of the policy of zero tolerance, Burke (1998) (in Vanderveen, 2006; p. 205) argues that the media, especially the television, play a major role in New York's political agenda. The TV is the main communication channel whereby politicians send messages to the general public about their ongoing work. Civil servants and politicians in New York are constantly 'tested' by the media and are forced to provide explanations for their actions while society expects fast responses and reactions from them.

The media play an important role in the 'fear of crime feedback loop' (Lee, 2007). As Cohen (2002) argues, the media create news from certain events, which the journalists expect to be a 'good story'. What becomes news depends on the journalists' ability to discern what a 'good story' is, and what the public wants and also on structural ideological interests that determine the media's tendency to create news from certain events.

After becoming a piece of news, the event itself becomes unique and extraordinary. By highlighting the specific event, the media separate it from everyday reality. However, the media usually fail to consider the complex processes from which the events emerge. Thus, they become pure, decontextualised, historical events offered for the consuming public (Lee, 2007).

Criminologists do not doubt that violent crimes constitute 'good' stories. Certain violent criminal acts remain in the media spotlight for weeks and, eventually, generate discussion about topics ranging from the death penalty, through the degradation of the moral base of the society, to the need for greater police control and issues of insecurity on the streets. However, most often these discussions occur when the perpetrator of a serious crime is reported to be a stranger to the victim, and the media sources emphasize that the victim was 'innocent' and behaved in an exemplary fashion. It, thus, implies that the victim could have been any one of us. However, it should also be noted that cases where the victim of a murder did not know the killer are rare. As Lee (2007) argues in 'the Western world' most of the homicides are committed by the victims' family members or close acquaintances. Nevertheless, as Madriz (1997) (in Lee, 2007; 188) shows, such cases do not usually warrant much media attention.

In the media, reporting is rapidly changing as one story quickly becomes more important than the others. In his study on the Birmingham provincial press Smith (1984) (in Lee, 2007; pp. 188–189) concluded that 70 per cent of crime news was devoted to violent crime, including assaults, whereas those cases represented only 5 per cent of all crime in official statistics. According to Smith, the media presents only a very small proportion of all crimes and thus is very selective. In addition, the distribution of media sources makes stories about crime accessible to a greater number of people. More importantly, the specific stories covered by the media can be discursively linked to broader discussions on crime and law enforcement. By extensively reporting about violent crime, the media are capable of generating panic and thus promote public anxiety about emerging threats to personal security and society's values. This creates the conditions for the emergence of such headlines as 'Crimes — we are losing the battle'. In short, almost every criminal story may increase an individual's fear and anxiety about the criminogenic situation (Lee, 2007).

Hogg and Brown (1998) (in Lee, 2007; p. 189), while studying the discourse on crime in the media, noted that reports about crime statistics almost always described crime rates as growing. Declining crime rates, however, were usually explained by victims tending not to report crime because they did not believe in a successful investigation or were afraid to appeal to the relevant institutions. The decline of crime indicators was also associated with the fact that crimes had become a common everyday reality, thus victims did not see any point in reporting them to the criminal justice institutions. However, when the official crime rates increase, the media use the opposite tactic. In this case the growth of crime is not associated with an increased number of reported crimes, but is interpreted as the reality. Thus, public opinion about the growth of crime rates becomes reinforced, and the media transmit bad news to their target demographic group, which is taken as a proof of a deteriorating social climate.

Moreover, the social climate in the media is usually presented as being 'worse than ever'. Reports give the impression that the stability and security of the past have been

Table 1. Percentage of the public opting for community service order and imprisonment as punishment for a burglar in the ICVS and 2005 EU ICS surveys[288]

Country	Year	Percentage preferring a prison sentence	Percentage preferring a community service
Austria	1996	10	62
	2005	13	56
Belgium	1989	26	38
	1992	19	55
	2000	21	57
	2005	17	67
Denmark	2000	20	50
	2005	18	56
Estonia	1992	43	38
	1996	39	35
	2000	24	51
	2005	28	43
Finland	1989	15	37
	1992	14	55
	1996	18	49
	2000	19	47
	2005	15	52
France	1989	13	53
	1996	11	68
	2000	12	69
	2005	13	68
Germany	1989	13	60
	2005	19	50
Greece	2005	30	27
Hungary	2005	29	44
Ireland	2005	38	43
Italy	1992	22	47
	2005	24	59
Luxembourg	2005	16	68
Netherlands	1989	26	46
	1992	26	48
	1996	31	42
	2000	37	30
	2005	32	37
Poland	1992	31	48
	1996	17	59
	2000	21	55
	2005	34	49
Portugal	2000	26	54
	2005	15	68
Spain	1989	27	24
	2005	17	47
Sweden	1992	26	47
	1996	22	50
	2000	31	47
	2005	33	41
United Kingdom	1989	38	37
	1992	37	40
	1996	49	29
	2000	51	28
	2005	52	29
Average	**1989**	**20**	**37**
	1992	**24**	**42**
	1996	**27**	**47**
	2000	**26**	**49**
	2005	**24**	**49**

destroyed by violence and social disorder. Hogg and Brown (1998) (in Lee, 2007; p. 190) define this as 'law-and-order nostalgia'. They claim that every generation has its own 'crime waves', 'crime fears' or 'moral panics' and note that each time reporting on these topics remains similar while each successive period is perceived in the public's consciousness as more cruel and dangerous than the preceding one.

The media, while they reconstruct reality, they also shape public perceptions of crime, and often portray criminals as 'predatory strangers'. This is what Madriz (1997) (in Lee, 2007; p. 190) calls 'media icons'. However, these images do not only appear in television news or in the press but are also discursively connected with TV series and movies. This way, crime becomes constantly embedded in public conversation. Madriz also argues that discourses about 'dangerous strangers' (or criminals) often have a racial character and, thus, fear of crime is often induced by racial differences.

Consequently, the media are one of those business sectors that seek profit from fear of crime. Media have for a long time been the main disseminator of crime fears and has, thus, played an important role in strengthening the discourse of fear. However, according to Lee (2007), the media are not the source of fear of crime. It is only one element in that cycle: it is not the catalyst and not the cause nor the fundamental problem. Lee argues that while blaming the media for fear of crime, we are unable to recognize the role of political discourses in increasing fear of crime. In addition, as Glassner (1999) (in Lee, 2007; p. 191) showed in his analysis, in certain cases the media present narratives which reduce the fear that they cause when striving to capture the audience's attention.

The role of the media in generating fear of crime should not be overestimated though. As Young (1996) (in Lee, 2007; pp. 191–192) shows, crime is conceived through various discourses which encompass different practices and institutions. She calls this a 'crimino-legal complex'. According to her, this includes knowledge, discourses and practices, which fall into the area of interest of criminology, criminal justice and criminal law. The criminologist tends to connect these with 'popular' discourses that are published in the media, film and advertising industries in order to demonstrate that crime has become a powerful symbol, exchanged between criminal justice officials, criminologists, journalists, film makers and ordinary people.

Lee (2007) argues that according to Young's analysis we can, in general, legitimately question the separate role of the media discourse on fear of crime, since its functioning while disseminating the 'symbols of the crime' is inseparable from other discourses of the 'criminological legal complex'. However, Lee also claims that in order to analyse certain media processes, we should not perceive them as discursively separate. Rather, we should always remember that media narratives and practice are not independent: they are intertwined in the 'the fear of crime feedback loop'. This cycle — Young's criminological legal complex — is an attempt to encompass a broad range of social actors who all contribute to the rise of fear of crime.

In other words, there is a relationship between the media and fear of crime, however, not a direct, causal one. How the media present crime is 'mediated' through imagined and often borrowed criminal narratives. It is important to understand the logic of these narratives in order to estimate the impact of the media on the public. Whether crime stories cause fear of crime in individuals depends on the individual experiences and also on the cultural context.

Furthermore, in order to analyse the relationship between the media and fear of crime one should also take into account the way the media report crime. Such elements as the sensational presentation of crime in the media, the length dedicated to crime issues in the press, dramatic content as well as whether the report ends with the success of the justice system, all have an impact on the individuals' fear reaction.

Recently, a new trend has also emerged in the mass media: they are increasingly performing a fear-of-crime-control function. The mass media are increasingly taking the role of a quasi-scientific entity, measuring fear of crime by various sociological surveys. However, according to Lee (2007), this phenomenon should not come as a surprise as it is well known that the fear of crime helps to successfully sell publications and attract viewers or listeners.

In this sense, the mass media do not only present sensational crime stories but in recent years they have become more interested in fear of crime as a concept, i.e. something that can be measured and that the public can be informed about. The 'official' statistics on fear of crime, which less than three decades ago were the only sources of information, now are supplemented by a new range of statistical surveys often commissioned by media sources. This also implies that official statistics are more often challenged and expert knowledge becomes less trusted. According to Pratt (1997) (in Lee, 2007; p. 193), modern crime statistics became one of the many publicly available sources of information on crime. Even though all of these sources reflect the reality of crime, different versions of this reality exist, and the media often cite those sources that show a much greater crime risk (especially sexual and violent crime) than in the official crime statistics.

At the same time scientists observed that in the 1960s the increase in fear of crime was followed by the emergence of various industries that took advantage of public fear: various technical products related to security were developed, and property security measures and private security agencies flourished. They became part of what Garland (2001) (in Lee, 2007; p. 92) defines as 'criminologies of the self'. This implies that media practices, discourses and narratives do not develop in a vacuum: the mass media are just one of many institutions that are influenced by cultural narratives. In this sense it is important to avoid 'demonising' and overestimating its impact on fear of crime.

3. PUNITIVE ATTITUDES

The third part of this report discusses punitive attitudes. Studies of public attitudes towards punishment are primarily related to opinion polls. Many surveys of the public's attitudes towards punishment exist: International Crime victimisation Survey (ICVS): 1989, 1992, 1996, 2000, 2004-2005[281]; European Crime and Safety Survey (EU ICS)[282]; European Crime Survey (ECSS)[283]; Eurobarometer's Crime victimisation Survey (EUCVS)[284]; regular national crime victimisation surveys, (some countries have used the ICVS as a national survey[285], others have their own national surveys[286]), or national victimisation surveys conducted sporadically.[287]

3.1. Assessing punitive attitudes in different countries

Punitive attitudes vary widely between different countries depending on their cultural, historical or political background. Thus a common understanding of what sentence or punishment is appropriate in certain circumstances is very difficult. Obvious differences in understanding can be observed in the results of the ICVS and EU ICS surveys. For instance, when respondents had to decide which sentence they considered most appropriate for a burglar — a 21-year-old who is found guilty of burglary for the second time, having stolen a colour television. The options offered to the respondents ranged from paying a fine to community service, suspended sentence and imprisonment with a variable length to life sentence. This approach permitted the creation of a scale of attitudes towards punishment (van Dijk et al., 2007). The respondents who

281. 26 European countries have participated in at least one of the five rounds of the ICVS. Cyprus is the only European country that has never participated in the ICVS. On the other hand, Bulgaria and Estonia are currently using the ICVS as their National Crime Surveys. Two pilot studies were conducted in 2009-10 that can be used regularly at the European level: the EU victimisation survey module and ICVS-2 (a shortened version of the ICVS questionnaire).

282. Since 2005 EU ICS carrying on the traditions of the ICVS

283. The ECSS is part of the current fifth step of the ICVS.

284. In 1996, 2000 and 2002 Eurobarometers have included questions on victimisation experiences and fear of crime, two other Eurobarometers (in 1999 and 2010) included questions on violence against women.

285. For example ICVS as a national survey was used in Bulgaria in 1997, 2002, 2004, 2005, 2007, 2008 and 2009, Estonia in 1993, 1995, 2000, 2005 and 2009

286. For example since 1999 Catalonia has conducted the Survey on Public Security in Catalonia annually, while Finland has regularly conducted the Finnish National Survey since 1980 and the United Kingdom has been periodically conducting the British Crime Survey (BCS) since 1982.

287. For example the Czech Republic, Germany, Bulgaria, Denmark, Spain, France, Greece, Hungary, Ireland, Italy, Luxembourg and Portugal

gave the burglar a prison sentence of more than six months were considered to have very punitive attitudes; those who condemned him to prison for six months or less had medium punitive attitudes; and those who had considered a non-custodial sentence were said to have low punitive attitudes. Of course, the severity of the sentence to be imposed on a given offender is not the only way to operationalise the variable on 'punitive attitudes'; it has, nevertheless, been utilised on various occasions and has provided positive results in many studies (Kuhn, 1992).

The EU ICS 2005 survey looked at 19 European countries. Data showed that community service was the preferred sentence for 49 per cent of Europeans in 2005 while imprisonment was recommended by 24 per cent of respondents (the UK was as an exception to this as there imprisonment was the first choice).

Public opinion on preferences for imprisonment varies across countries. Over 50 per cent favoured imprisonment in the United Kingdom where it was the first choice, 38 per cent in Ireland and 34 per cent in Poland[289]. Respondents in France (13 per cent) and Austria (13 per cent) were the least in favour of imprisonment.

Comparing data over time, in Belgium, Denmark, Estonia, Portugal, Spain and Sweden, a custodial sentence has become less favoured. In contrast, more respondents chose a prison sentence in the UK in 2005 than in 1989. Overall, a community service order was considered the most appropriate sentence in the 2005 survey. In eight European countries community service was favoured by more than 50 per cent of respondents: France, Luxembourg and Portugal (68 per cent), Belgium (67 per cent), Austria, Denmark (56 per cent), Finland (52 per cent), Germany (50 per cent).

The trend of opting for community service in EU countries has shifted over time. While 37 per cent of the respondents preferred this punishment in 1989, in 2005 49 per cent of the respondents chose community service. A comparison of data across countries over time shows more support for community service in Belgium (from 38 per cent in 1989 to 67 per cent in 2005), Estonia (from 38 per cent in 1992 to 43 per cent in 2005), Finland (from 37 per cent in 1989 to 52 per cent), France (from 53 per cent in 1989 to 68 per cent in 2005), and Spain (from 24 per cent in 1989 to 47 per cent in 2005). In other countries, community sentences became less popular over time. For instance, there were fewer respondents preferring community service in the Netherlands in 2000 than in 1989.

A number of ICVS publications compare national attitudes towards sentencing with national imprisonment rates. Western Europe and the US tend to have comparatively higher imprisonment rates where the public clearly favours imprisonment over alternative sentences (such as in the US and the UK) (Van Dijk, 2006).

Within the EU context, there is a very weak and statistically insignificant relationship between public opinion on sentencing and the actual level of imprisonment rates. Three new member states — Hungary, and especially Poland and Estonia — stand out with prison rates far above the EU average while public punitive attitudes in these countries are only slightly higher than the European average. Public attitudes in these countries have changed over the past 10 years shifting away from imprisonment towards community service and are now broadly in line with the EU majority point of view. Actual sentencing policies seem still to be comparatively punitive, although, as discussed in the first section of this report, levels of conventional crime are not excessively high in any of the three countries (Kuhn, 1992).

288. Source: van Dijk J.J.M., Manchin R., van Kesteren J.N., Nevala S., Hideg G. (2007) The Burden of Crime in the EU, a Comparative Analysis of the European Crime and Safety Survey (2005 EU ICS). Brussels, Gallup Europe.

289. The Polish questionnaire also had the option 'labour camp' (23%), these responses are counted as 'prison sentence' for international comparison.

3.2. Factors influencing sentencing attitudes

Research measuring punishment attitudes has examined the impact of factors such as gender, age, education level, income/social class, race/ethnicity, religiosity, political orientation on sentencing attitudes, level of fear of crime and victimisation experiences.

3.2.1. Gender

The majority of studies conducted in this area have revealed that males are more punitive than females. Women usually hold fewer punitive sentencing attitudes than men. Women are also less supportive of the death penalty and are generally more likely to oppose capital punishment than men (Kuhn, 1992; Gault & Sabini, 2000; Zeizel & Gallup, 1989; Applegate, Wright, Dunaway, Cullen, & Wooldredge, 1993; Applegate, Cullen, Fisher & Vander Ven, 2000; Keil & Vito, 1991; Robbers, 2006; Moon, Wright, Cullen, & Pealer, 2000; Young, 1992; Grasmick, Cochran, Bursik, & Kimpel, 1993; Vogel &Vogel, 2003; Kelley &Braithwaite, 1990; Sandys &McGarrell, 1995; Halim & Stiles, 2001; Unnever & Cullen, 2005; Skovron, Scott, & Cullen, 1989; Davila, Harley, Bucker & Wilson, 2010). However, women may be more punitive than men in the case of violent crime and where there is clear harm to the victim (Meier & Geis, 1997).

3.2.2.. Age

Older respondents tend to be more punitive than younger respondents (Davila, Harley, Bucker and Wilson, 2010). Kuhn (1992) discovered that the effect of age on various attitudes toward punishment is more visible when the two genders are considered separately. His study shows that young men are less punitive than older men, but young women are more punitive than older women. These trends — reported in 1992 — were found in almost all the countries that participated in the International Victimisation Survey.

3.2.3. Education level

The level of education plays a considerable role in punitive attitudes (Kuhn, 1992). According to Dowler (2003), people with tertiary education were more likely to hold non-punitive attitudes. In general, results indicate that as education level increases, support for the death penalty decreases. Several studies have shown that the higher an individual's educational attainment, they are less likely to support capital punishment (Moon, Wright, Cullen & Pealer, 2000; Rossi & Berk, 1997; Unnever & Cullen, 2005; Young, 1992).

3.2.4. Race/Ethnicity

Past research examining sentencing attitudes has also focused on the influence of race and ethnicity. In general, minorities are more likely to hold non-punitive attitudes than non-minorities (Dowler, 2003; Applegate, Wright, Dunaway, Cullen, & Wooldredge, 1993; Applegate, Cullen, Fisher & Vander Ven, 2000; Barkan & Cohn, 1994, 2010; Bohm, 1999; Cochran & Chamlin, 2006; Halim & Stiles, 2001; Unnever & Cullen, 2005; Young, 1992; Davila, Harley, Bucker and Wilson, 2010). When white and African-American respondents were compared, more punitive attitudes regarding punishment were found among whites (Dowler, 2003; Bucker, Davila & Salinas, 2008; Millares, 2009). These studies also found that whites tend to be more supportive of the death penalty than African-Americans. However, African-Americans held more punitive sentencing attitudes when the crime was classified as a white collar (corporate) crime (Unnever, Benson & Cullen, 2008).

3.2.5. Religiosity

Past research shows that individuals with high levels of religiosity held more punitive attitudes than respondents with lower levels (Davila, Harley, Bucker and Wilson, 2010). Millares (2009) found that individuals who did not belong to a religious denomination (reported to be atheist or agnostic) were less punitive than those who had a religious denomination. The statistically significant interaction indicated that individ-

uals are more punitive if they believed that the Bible was the actual word of God (this effect was insignificant in case of black people). Biblical literalism is a common belief of Christian fundamentalists and indicates punitive attitudes in the criminal justice system (Millares, 2009; Borg, 1997; Unnever & Cullen, 2006).

3.2.6. Income level/Social class

The impact of income level on sentencing attitudes has also been examined. Results indicate that in general, individuals with higher incomes and from the upper classes hold more punitive attitudes regarding punishment than individuals from lower income groups or lower classes. In addition, compared to lower income individuals, those with higher income express more support for capital punishment (Bohm, 1999; Borg, 1997; Johnson, 2009; Moon et al., 2000; Vogel & Vogel, 2003; Young, 1992; Davila, Harley, Bucker and Wilson, 2010).

3.2.7. Marital status

Dowler (2003) found that married respondents were more likely to have more punitive attitudes than single respondents. This is because married people might believe that they have more to lose if they are victimized and support tougher policies towards crimes.

3.2.8. Level of fear of crime

Respondents with a higher fear of crime are more likely to have punitive attitudes (Dowler, 2003).

3.2.9. Political affiliation

People with conservative orientations hold more punitive sentencing attitudes and support the death penalty and capital punishment for adult and juvenile offenders than those with a rather liberal orientation (Borg, 1997; Grasmick & McGill, 1994; Johnson, 2009; Moon et al., 2000; Vogel & Vogel, 2003; Unnever & Cullen, 2005; Young, 1992).

3.2.10. Self-construal style

Past research shows that people react passionately towards injustice and the violation of social rules, obligations and norms even if they are not directly affected by criminal deeds (Vidmar, 2001). People differ in how morally reprehensible, threatening, and severe they consider a particular norm violation, and how much responsibility and guilt they ascribe to a wrongdoer. People also differ in the quantity and quality of sanction they prefer. A relatively large proportion of this variance in punitive attitudes is attributable to individual differences (authoritarianism, social dominance orientation, need for cognition, norm-internalisation, and concerns for society's normative and moral cohesion) (Gollwitrzer, Bucklein, 2007).

Gollwitzer and Bucklein (2007) also found that justice-related attitudes and punitive judgement depend on the interdependent and independent self-construal style.[290] Results show that interdependent self-construal style is connected to stronger emotional reactions towards injustice, to social and moral concerns and to preferences for constructive forms, but also to retribution-oriented goals of punitive sanctions. They viewed acts of norm violation as more harmful to society and more morally reprehensible. Independent self-construal, on the other hand, was related to fewer moral concerns, lower punitiveness, but more draconic attitudes (Gollwitrzer, Bucklein, 2007).

3.2.11. Attribution style

Several studies have sought to link punitive public attitudes to attribution style.

290. Interdependent self-construal means that people define themselves through their social relations, their communal or societal roles and their dependence on other people or on specific contexts. Independent self-construal, on the other hand, means that people define themselves by how they differ from other people and by the extent to which they are not influenced by a specific situational or interpersonal context.

Maruana and King's (2009) research shows that personal attribution[291] is as important in explaining support for highly punitive criminal justice policies as beliefs about criminal responsibility. Empirical research shows that those who believe that criminal acts are the result of freely chosen and wilful behaviour are more likely to be punitive than those who feel that crime is the result of external circumstances and constraints (Maruana & King, 2009). These studies identified four different views: those who see offenders (criminals) as 'victims of society'[292] are the least punitive. The second group — those who think that offenders are 'permanently damaged by society'[293] – are likely to advocate longer sentences, less out of retributive impulses (why should these victims of social context be made to suffer?) but rather out of a risk-based need for incapacitation as a protective measure. The third group of respondents see offenders as 'people who made bad choices'[294] and their support for punitive crime measures likely involve a belief in deterrence combined with 'justice model' support for retribution. The last group who see offenders as 'evil' are the most punitive in their views. They are also the most perplexing in terms of the logic of their thinking. Although they believe that crime 'is a choice', they also believe that offenders cannot choose to go straight, that 'once a criminal, always a criminal'. On the surface, this appears to be contradictory. However, it makes sense if one believes that some individuals have a criminal nature. They are not pushed into criminality, as in the 'damaged' model; they have chosen that life for themselves but they could not do otherwise. They are criminal to the core (Maruana & King, 2009).

3.2.12. Incarceration

Several researchers also examined the public's emotional reaction to crime and its impact on punitive attitudes. Empirical data shows that vicarious incarceration (having a relative or close friend currently incarcerated) had a negative effect on punitive attitudes (Johnson, 2006; Davila, Harley, Bucker and Wilson, 2010). Individuals with an incarcerated relative or friend were significantly less punitive than individuals without this experience. Davila et. al. (2010) also found that individuals with prior vicarious or personal experience with the criminal justice system are significantly more likely to perceive punishments as too harsh compared to those who lack these experiences.

291. Attribution — the assignment of causes to behaviour, or the perception or inference of the causes of behaviour, such causes including personal dispositional factors and external situational factors (Colman, 2003)

292. Respondents believe that individuals are pushed into crime by external forces, and likewise can probably be pushed out of crime and onto the 'straight and narrow' through concerted effort.

293. They believe the causes of crime reside in the social environment; they see adult criminals as 'hardened' offenders and unlikely to change.

294. This group can be thought of as classical thinkers. They believe that crime is a choice.

Work Package 4
State of the art:
Public perceptions

4.2

Report on the roots of 'penal populism'

by: Attila Bartha, Zsolt Boda, Gergő Medve-Bálint, Gabriella Szabó, Zsuzsanna Vidra, Jonathan Jackson, Ben Bradford, Betsy Stanko, Katrin Hohl, Margarita Dobrynina

EXECUTIVE SUMMARY

The research project FIDUCIA (New European Crimes and Trust-based Policy) is funded primarily by the European Commission under the 7th Framework programme for Research. FIDUCIA will shed light on a number of distinctively 'new European' criminal behaviours that have emerged in the last decade as a consequence of technology developments and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation, and proposes a 'trust-based' policy model in relation to emerging forms of criminality.

Work Package 4 reviews what is currently known about fear of crime, trust in justice and punitive attitudes of citizens across Europe. The theoretical assumption is that current public opinion about crime across Europe will shift in the wake of new forms of crime and new inter-ethnic tensions. Nurtured in part by tabloid media and radicalising political discourse, 'popular punitive' sentiments are characterized, among other things, by an emphasis on unexpected and growing crime, blaming certain social groups, distrust in the police and justice, and the endorsement of harsh, punitive measures.

In line with this, D4.2 aims to contribute to a better understanding of the roots of 'penal populism'. The assumption is that the media (especially the tabloids) as well as radicalising political discourses may fuel public attitudes on fear of crime and penal populism. In order to assess this assumed relationship, this report summarizes three country studies. The first one was carried out in Hungary and aimed to identify the media and political discourses revolving around the introduction of the so-called 'three strikes and you are out' principle into Hungarian criminal law in 2010. The second study was conducted in the United Kingdom and on the one hand it tried to determine the impact of media coverage of the 2011 London riots on attitudes towards justice. On the other hand, it also intended to assess the impact of the media on attitudes to the police in London based on a comprehensive media content analysis of a three-year period (2007-2010). The third case study was carried out in Lithuania. The analytical methods and the geographical scope of the studies differ, yet they offer a thorough, extensive and illuminating picture about public attitudes to penal populism and the role of the media and politics in shaping those attitudes.

The **key findings** are the following:

The Hungarian case study revealed that:

1. In a European perspective, the Hungarian public is highly supportive of more punitive legal measures, thus discourses of penal populism fall on fertile ground there. Accordingly, the punitive turn of the criminal law, the introduction of the three-strikes principle met public demand.
2. The political and media discourses revolving around the three-strike initiative were radically different. While populist arguments dominated the political discourse, the media was more balanced in this respect and also reflected less populist interpretations of crime.
3. The Hungarian media remained rather neutral or descriptive when reporting about crime. In addition, the analysed tabloid newspapers were as much or even less populist than the other media sources. This finding does not bring evidence in support of the hypothesis that tabloid media fuel penal populism. Yet, in those instances when the media, including the tabloids, spread populist approaches about crime, then they may still indirectly reinforce punitive public sentiments.
4. Both the Hungarian political and media discourses about the origins of crime sharply differed from the public discourse. While political actors preferred to blame crime on the ineffective criminal justice system, the public shared the view that blocked social opportunities and social tensions were mostly responsible for criminal activity. This mismatch between the political and public discourse implies that while the punitive turn of the criminal law (the introduction of the three-strikes principle) met public demand for harsher sentences, it has obviously failed to offer remedies for those social problems which the public considers to be the main causes of crime.

The case study on the United Kingdom revealed that:

5. Due to the 2011 London riots, there was an increase in the proportion of Londoners who felt that young people did not have enough respect for traditional values.
6. In addition, the riots also contributed to a substantial increase in the demand for harsher punishment for law breakers. While the events did not have a measurable effect on the fear of crime, they directly resulted in a sharp increase in public punitivity.
7. While there was considerable variability in media coverage of the police in the observed three-year period (2007-2010), this was not matched by co-variation in public confidence in police as it was on a continuous trajectory of slight increase over this period. This suggests that the confidence of the public in the police is very stable and appears largely immune to the ups and downs of press reporting and does not follow the dividing lines of the newspapers they read.
8. In spite of this, the study has identified statistically significant, although very small, media effects (differentiated by each media source) on public perceptions about the police. The analysis revealed that media effects differed between readerships and were not statistically significant in all of them. This might suggest that different readerships are affected by different types of police-related events and affected differently by the same type of event. This finding may reflect the diversity of policing images that are held within the population. While levels of confidence in the police might be similar for different readerships, what the police mean to them might differ.

The case study on Lithuania revealed that:

Through the extensive coverage of a paedophilia scandal between 2009 and 2012, the Lithuanian media exerted indirect pressure on the domestic criminal justice system and at the same time it portrayed such crime narratives that legitimated certain populist political strategies.

1. INTRODUCTION

By summarizing two country studies, this report tries to contribute to a better understanding of the roots of penal populism. The first study was carried out in Hungary and aimed to identify the media and political discourses revolving around the introduction of the so-called three-strikes principle into the Hungarian criminal law in 2010. The second one was conducted in the United Kingdom and it tried to determine the impact of the media coverage of the 2011 London riots on public attitudes to justice. In addition, based on a comprehensive media content analysis of a three-year period (2007-2010), it also tried to assess the impact of the media on attitudes to the police in London. Both the analytical methods and the geographical scope of the studies differ, yet they offer a thorough, extensive and illuminating picture about penal populist discourses. The following two sections provide a brief literature review on the concept of penal populism and on how, along with other factors, penal populism may play a role in shaping public attitudes about the police.

1.1. The concept of penal populism

The notion of penal populism (see Pratt 2007; Roberts et al. 2003) refers to a rhetoric which suggests that criminals and prisoners are being favoured at the expense of crime victims and the law-abiding public. Penal populism usually feeds on expressions of anger, disenchantment and disillusionment with the criminal justice system. It usually takes the form of 'feelings and intuitions' rather than some more quantifiable indicators: for example, expressions of everyday talk among citizens which revolves around concerns and anxieties about crime and disorder; anger and concern about these matters volubly expressed in the media — not simply the national press or broadcasters (many of which are anyway thought to be too closely aligned with the not-to-be-trusted establishment) but the popular press in particular (Pratt 2007, p.12).

At the same time, penal populism is clearly something more than public opinion *per se*, it is not averse to using evidence from such surveys to bolster the claims it makes. Furthermore, penal populism feeds on division and dissent rather than consensus: it is as if a huge gulf would exist between the penal expectations of the public at large and the policies and practices of the criminal justice authorities (Pratt 2007, p.13). When penal populism is influential, politicians are eager to ensure that policy in this sphere is more reflective of the public will than the values of the criminal justice establishment (Pratt 2007, p.14; Roberts et al. 2003, p.4). By employing a tabloid style of communication that bears simplicity and directness, populism seeks to step over formal political institutions to become, ultimately, of the people but not of the system. In this respect, anecdote and personal experience are better able to convey the authenticity of crime experiences than mere statistics. As a result, populist debate about crime and punishment revolves more around the emotion that such representations invoke rather than rational, considered judgement (Pratt 2007, p.17).

Penal populism attempts to reclaim the penal system for the 'oppressed' majority and harness it to their aspirations rather than those of the establishment, or those of liberal social movements. When rights are referred to in a penal populist discourse, they are usually the rights of the general public to safety and security. At the same time, the discourse implies to revoke rights from those groups (immigrants, asylum seekers, criminals, prisoners) on whose behalf other social movements are campaigning for. This way it claims to represent the rights of the general public, not of fringe groups or minorities, against what is perceived to be the privileged, highly educated, cosmopolitan elite whose policies have put its security at risk. Penal populism demands that criminal justice be restored, shifting it away from the interests of criminals and towards those of the law-abiding. This explains most of the slogans associated with populist initiatives: 'three strikes', 'truth in sentencing', 'life means life', 'zero tolerance', etc. Whatever their strategic effect is, these transparent slogans are also emblems of the way in which popular common sense should order the criminal justice system, rather than the 'opaque' and 'muddled' expertise of the criminal justice establishment (Pratt 2007, p. 22).

1.2. Factors shaping public trust in the police and the role of penal populism

Along many other factors, penal populism affects public trust in the police through political and/or media discourses. However, it is difficult to establish a straightforward causality between penal populism and trust in the police precisely because of the numerous possible factors that also shape public confidence in the police.

Nevertheless, direct contact with police officers appears to have the strongest influence on trust. Unsatisfactory police contact has a strong negative impact on trust in the police, whilst satisfactory contact only has a small confidence enhancing effect (Fitzgerald et al. 2002, Skogan 2006, Tyler and Huo 2002, Bradford et al. 2009). One explanation for this asymmetry might be that the expectations and opinions people bring to the encounter shape how the encounter is subsequently perceived: a positive encounter may not result in improved opinions of the police because either this was expected (by those who already had positive opinions of the police) or dismissed as a one-off exception by those who had pre-existing negative views of the police (Skogan 2006, Reisig and Chandek 2001).

Research has shown that vicarious experience — hearing from family members, neighbours and friends who had direct contact with police — has a similarly strong effect on trust in the police as direct encounters with a police officer (Rosenbaum et al. 2005). Visibility of police foot patrols (and to a much lower extent vehicle patrols) has been found to enhance public trust in the police (Tuffin et al. 2006). Furthermore, how well the police are dealing with crime and disorder appears to be, at least in part, inferred from the health and strength of social bonds and community regulation (social cohesion and collective efficacy). When informal control processes function well, the police appear highly effective in controlling crime and disorder. In turn, when social bonds and informal social control are breaking down, the police receive part of the blame (Loader 1996, Garland 2001, Girling et al. 2000, Jackson and Sunshine 2007). In short, 'the police will appear more successful the less they are actually needed' (Reiner 2000: xi).

The omnipresence, wide reach and persuasiveness of the mass media render the media a regular candidate in discussions about factors that shape public opinion of the police (Manning 2003, Garland 2001, Reiner 2010). Yet, there are surprisingly few studies that probe this notion empirically. One reason is that 'media effects' are notoriously difficult to research and criminologists have not yet made full use of the methodological possibilities to address such research questions. More generally, little is known about how information — not only from the media, but also directly from the police or other sources — impacts on public trust. Yet, direct police communication has become part of policing strategies aimed at 'reassuring' the public and regaining trust.

Falling levels of confidence were attributed to a public lack of knowledge and widespread false beliefs about crime trends, and falling confidence linked to 'irrationally inflated' fear of crime — the latter commonly being blamed on the media (Singer and Cooper 2008, Chapman et al. 2002, Salisbury 2004). In more recent years, the focus has shifted away from 'correcting' public perceptions of crime towards the use of information provision as part of neighbourhood policing strategies. Here, information provision is used as a way of engaging with the local community (Innes 2007, Wünsch and Hohl 2009). Whether such information provision can be successful in enhancing public trust in the police is unclear.

All in all, one can reasonably assume that penal populist discourses appearing in political communication or in the media may fuel the attitudes of fear of crime and, in turn, generate penal populist attitudes in the public. At the same time, one can also claim that radicalising political and media discourses only reflect public attitudes, thus causality may run in both directions. In the following section a case study on Hungary will demonstrate the variety of media and political discourses in a generally distrusting public environment, where popular attitudes to penal populism are also favourable.

2. CASE STUDY ON HUNGARY
Analysis of the political and media discourses revolving around the introduction of the three-strike principle into Hungarian criminal law

2.1. Introduction: frames and discourses on crime

Based on the work of Theodore Sasson and Ray Surette we anticipate five dominant interpretations ('frames') of crime and criminal justice (Sasson 1995; Surette 2007). While these frames tell something about the perception of the roots and origins of crime, some of them can be appealing for populist and some for the liberal discourses about crime.

The first interpretive frame, the *'faulty system'*, suggests that people act against the law since they know that they can easily get away without being captured. Even in case of conviction, sentences would be soft. In short, the faulty system frame blames crime on the ineffective and weak criminal justice system, which does not sufficiently serve public security. The *social breakdown frame* sees crime as a result of a general crisis in values that lead to the disintegration of families and small communities. This discourse also tends to support the criminalization of 'antisocial' behaviour such as begging, prostitution and drug use and emphasizes the role of collective efforts against crime via crime watches and community policing. The *violent media frame* suggests that violence portrayed frequently in mass media undermines popular respect for life. The frame implies that in order to decrease violence in real life, violence appearing in the media should be reduced first.

In a recent study Boda and Szabó (2010) found that a high proportion of media outlets in Hungary regarded crime as an inexplicable hybrid of coincidence and human brutality. Although this approach seems to comply with Sasson's social breakdown frame, it can be set apart from it in that it does not offer any explanations about the origins of crime and focuses almost exclusively in describing the brutality of criminal offences. Thus, it can be called a '*cruel world frame*' as it gives the impression that life is full of violence and everybody (regardless of age, sex and social status) can become a perpetrator or a victim of crime. It also implies that society has to be as 'cruel' with criminals as they were when they broke the law.

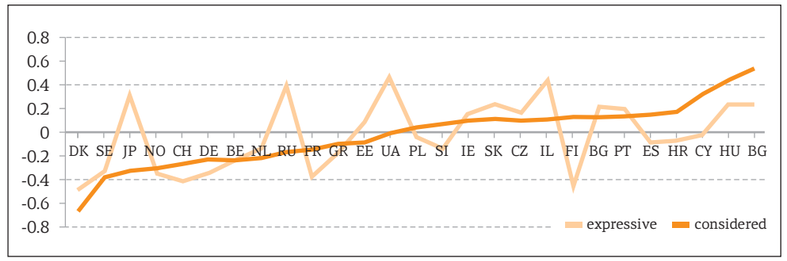
Finally, the *blocked opportunities* and *racist system frames* share a common crime-conception which suggests that crime is the consequence of social inequality, discrimination and social exclusion. They find the roots of antisocial behaviour in rising unemployment, poverty and low level of education. In this respect, crime is how the socially deprived express frustration over their situation. Finally, we also introduced a new frame, faulty politics**,** which refers to bad politics and bad and corrupt politicians, and suggests that through political corruption criminal activity may be indirectly generated.

It follows from the description of the frames that populist discourse, which usually argues that public security needs to be enhanced by introducing stricter measures of punishment and allocating more funds for police and prisons, can mainly build on the faulty system, the social breakdown and the cruel system frames. In contrast, the liberal discourse, which argues that figures of crime rates do not support the claims for harsher punishments and there is no evidence that harsher measures would reduce the number of violent crimes, can be positioned within the blocked opportunities and racist system frames. These two frames suggest that a punitive crime code is rather counterproductive: to reduce crime and antisocial behaviour, decision-makers should improve the social condition of the marginalised people by improving access to education and ensuring equal opportunities.

2.2. Public attitudes toward penal populism in Hungary

Data from the fifth round of the ESS survey (2010) reveals that both the level of expressive and considered punitivity of the Hungarian population is among the highest in Europe. Expressive punitivity[295] reflects a desire for tougher penalties, while considered punitivity[296] reflects individual preferences for heavy sentences in a specific criminal case. As Figure 1 shows[297], Hungary ranks high in Europe in both dimensions, which suggests that penal populism falls on fertile ground there.

Figure 1. Expressive and considered punitivity across Europe in 2010[298]



NOTE: Variables have been standardized to have a mean of zero and standard deviation of one.

Another aspect of punitivity in Hungary was revealed by a public opinion poll conducted in September 2009. The survey inquired about those factors that people consider the main contributors to crime. Respondents could choose from five options, each of them representing one of the interpretive frames introduced above. Table 1 summarizes the results.

Table 1. Public interpretations of the main drivers of crime in Hungary (2009)

Which factor is the most important contributor to crime?	Share (%) of responses (N = 969)
the current state of the police (≈faulty system)	12.0 %
social tensions, impoverishment (≈blocked opportunities)	47.2 %
ethnic conflicts (≈social breakdown)	16.3 %
organized crime (≈cruel world)	8.9 %
the elite does not pose a moral example to follow (≈faulty politics)	9.9 %
other	5.7 %

SOURCE: Századvég survey, September 2009

According to this survey, almost half of the respondents thought that the main drivers of crime were the growing social tensions and impoverishment. This view can be interpreted as complying with the blocked opportunities frame. Ethnic conflicts were the second most frequently mentioned cause of crime, which resonates with the social breakdown frame. Responses complying with the faulty system, faulty politics and the cruel world frames received a much lower share as they represented less than one third of all responses. These results together with the figures on punitivity suggest that the Hungarian population tends to support penal populism, but at the same time people also tend to think that social tensions and declining values and standards of living are the main causes of crime.

In the light of this general background, the adoption of the three-strikes laws offers an excellent opportunity to empirically examine and evaluate the media and political

295. measure for expressive punitivity: Answers to the question in the ESS 2010 dataset 'People who break the law should be given much harsher sentences than they are these days'. Recoded as 1=strongly disagree, 2=disagree, 3=neither agree nor disagree, 4=agree, 5=strongly agree.

296. measure for considered punitivity: A combination of two variables from the ESS survey. The first reports the answers to the questions 'People have different ideas about the sentences which should be given to offenders. Take for instance the case of a 25-year-old man who is found guilty of house burglary for the second time. Which one of the following sentences do you think he should receive?' The variable was originally coded as 1 = prison sentence, 2 = suspended prison sentence, 3 = fine, 4 = community service, 5 = any other sentence, 8 = don't know. The second variable reports answers to the question that had prison sentence been chosen, which of the following answers would come closest to the length of time the respondent thinks the criminal should spend in prison. The original coding was 1 = 1-3 months, 2 = 4-6 months, 3 = 7-11 months, 4 = about 1 year, 5 = about 2 years, 6 = about 3 years, 7 = about 4 years, 8 = about 5 years, 9 = 6-10 years, 10 = more than 10 years, 88 = don't know. The combination of these two variables gave the following ordinal scale variable: 1= community sentence, 2 = fine, 3 = suspended prison, 4 = less than a

discourses and to observe emerging patterns of penal populism related to the issue. First, we concentrate on the political discourse and then we move on to analyse the media discourse.

In the following pages we demonstrate that the discursive positions of both the centre-right government and the extreme right party, which gained the third largest faction in the parliament in 2010, show signs of penal populism. Besides, we also show that criminal justice experts played only a marginal role in the debate. In this respect, the adoption of the three-strikes principle took place following a political rather than a legal rationale as it is also argued by Lévay (2012) and Borbíró (2009).

2.3. Political discourse revolving around the three-strikes initiative

This section analyses the political discourse that accompanied the introduction of the three-strike principle into Hungarian criminal law. The debate about the issue took place in two time periods, in the spring of 2009 and in the spring and summer of 2010, following the general parliamentary elections. Three-strikes laws originate in the United States where they significantly increase the prison sentences of perpetrators who had been previously convicted of two or more violent crimes or serious felonies.

The centre-right Fidesz party initiated the introduction of this principle into the Hungarian criminal code in February 2009. At the time the party was in opposition and the governing socialist-liberal coalition voted down their initiative in Parliament. This constituted the first phase of the debates on the three-strikes principle. In the general elections in April 2010, the socialist-liberal government was ousted and Fidesz secured a constitutional majority in Parliament. At the beginning of June 2010 the new centre-right Fidesz government passed a series of bills that introduced three-strikes statutes into Hungarian criminal law and, as a consequence, the law now mandates courts to impose life sentences on habitual offenders committing serious, violent crimes. The period following the parliamentary elections was, therefore, the second phase of the debate on the three-strikes principle.

Some analysts have already negatively assessed the new laws considering them a sign of *Americanization*[299] of the criminal law and the arrival of an '*expansionist penal policy*' (Lévay 2012: 117). Yet others expressed their support to the adoption of the three-strikes principle as the evidence of a *'socially responsive'* policy making process which resonated with public anxiety about crime (Kónya 2011: 133-134). It is indeed the case that the punitivity of Hungarian penal policy increased over the last decade no matter the political orientations of the subsequent governments (Lévay 2012, Kónya 2011: 129-131).

2.4. Data collection

We identified 79 items that constitute the main political discourse regarding the three-strikes principle. The sources of these records include documents of three parliamentary debates (2 March 2009, 21 May 2010, 5 July 2010) held on the three-strikes laws and on the related new penal measures (38 records), press releases, campaign materials, the government programme for 2010-2014 and related entries uploaded on the official websites and social media profiles of the parliamentary parties (31 records), publicly available statements of the human rights NGOs and criminal justice experts (such as conference presentations, round table discussion materials, press releases, etc.) (10 records).

In order to specify the general inquiry of the study (who speaks penal populist discourse and what the main communicative features are), we aimed to identify the political actors that participated in the debate, their positions *vis-à-vis* the three-strikes principle, how they justified their positions, and which interpretive frames they applied. We keep the political domain separate from the media domain in order to be able to distinguish between political and media discourses.

year in prison, 5 = about 1-2 years in prison; 6 = about 3-4 years in prison; 7 = 5 years or above in prison.

297. The figure was produced based on Figure 2 in the FIDUCIA *Report on an empirical assessment of fear of crime and punitive sentiment across Europe* (D4.3), September, 2012, p. 15.

298.country abbreviations: DK=Denmark; SE=Sweden; JP=Japan; NO=Norway; CH=Switzerland; DE=Germany; BE=Belgium; NL=Netherlands; RU=Russia; FR=France; GR=Greece; EE=Estonia; UA=Ukraine; PL=Poland; SI=Slovenia, IE=Ireland; SK=Slovakia; CZ=Czech Republic; IL=Israel; FI=Finland; BG=Bulgaria; PT=Portugal; ES=Spain, HR=Croatia; CY=Cyprus; HU=Hungary; BG=Bulgaria

299. A három csapás. Egy veszélyes út, amelyről később nagyon nehéz letérni. In: Ügyvédvilág 2010/7-8.

2.5. The discursive positions of the main political actors

Besides the main political parties, academic intellectuals, human rights NGOs and representatives of local governments took part in the debate, but only to a limited extent. Fidesz has been the dominant actor both in the first and the second phase of the debate with its 28 communication items recorded. The conservative party was the clear issue owner that shaped the political agenda concerning the three-strikes laws. After their draft bill had been rejected by the socialist-liberal majority on 2 March 2009, Fidesz launched a mass signature collection campaign to demonstrate that there was public demand for a more punitive penal policy (Mihályffy 2010: 46). The penal policy reform became a salient issue after Fidesz won the elections in 2010 and it also constituted a key part of the government programme.[300]

Jobbik, the extreme right party which has become the second largest oppositional force in the parliament was also keen to express its standpoints on the three-strikes laws (13 recorded items). Jobbik has been known as a dedicated promoter of penal punitivity. The party intensively cultivated law-and-order discourse with some racist narratives, which brought considerable electoral success for the party in the 2009 European Parliament elections and the 2010 general elections (Karácsony-Róna 2009; Juhász 2010, Zentai 2011).

The MSZP (Hungarian Socialist Party) did not show much interest in participating in the debate. Only four records attributed to the socialists entered the dataset. They were all parliamentary speeches which opposed the bills, but at the same time agreed with the need for a more punitive criminal law.

The liberal green party, the LMP (Politics Can Be Different) became active during the parliamentary debates that preceded the adoption of the three-strikes laws. The party rejected the statutes and took a consistent standpoint against punitivity (6 items).

Several human rights NGOs (Hungarian Civil Liberties Union, Hungarian Helsinki Committee) also expressed their objection to the three-strikes initiative (6 items). They raised their critical voices, especially in 2010, before and after the bills were passed by the conservative majority in the parliament.

In addition, political leaders of local communities that were highly affected by criminal activity showed support for the three-strikes principle and expressed their consent with the more punitive turn of the law (3 items). Finally, experts from the scholarly community also expressed their criticism towards the initiative both in the first (in 2009) and second phase (in 2010) of the debate.

2.6. Arguments in favour and against the new laws

The actors in favour of the three-strikes statutes applied a coherent set of arguments which negatively assessed the performance of the criminal justice system. Fidesz and the conservative government argued that the former socialist-liberal government applied lenient policies that neither deterred perpetrators nor protected the law-abiding public. As the party declared:

> 'The laws of the previous government led by Ferenc Gyurcsány rather encouraged offenders to commit crimes than protected the victims and law-abiding people. ... This must be changed."[301]

300. Nemzeti Együttműködés Programja (Government programme for 2010-2014). Available at: http://www.kormany.hu/

301. Nemzeti Ügyek Politikája (Fidesz party programme for General Election 2010), page 53. Available at: http://programme2010.fidesz.hu/

The party also stated that due to the ineffective penal policy, violent crimes reached record high levels and, as a consequence, the general public had lost its trust in the criminal justice system.[302]

It seems that the argumentation of Fidesz about the origins of crime complies mostly with the faulty system frame. Other frames rarely appeared in their communication, although we identified traces of the social breakdown frame and the cruel world frame in 4 of the recorded items. Yet, they were always accompanied by the dominant faulty system narrative.

Fidesz also tried to justify its initiative with the perceived public demand for more secure living conditions. In addition, the party referred to positive experiences (decreasing crime levels) following the introduction of three strikes laws in California and Slovakia.

In the first phase of the debate in 2009, the socialist-liberal government questioned the criminological adequacy of the three-strikes model and raised constitutional doubts about integrating it into the penal code. However, even Tibor Draskovics, Minister of Justice, and Prime Minister Ferenc Gyurcsány admitted that the level of public security was decreasing and violent crimes were threatening the society. The governmental press releases demonstrate that the socialist-liberal coalition shared the view that there was a need for urgent policy intervention to empower the police with additional human and financial resources.

After the socialist party lost the elections, it made surprisingly few contributions to the second phase of the debate. Only two socialist MPs raised their voices in parliament. One of them sharply criticized the three-strikes principle and also highlighted that Fidesz drafted the bills without consulting with legal experts.[303] Conversely, socialist MP Gergely Bárándy, the criminal justice expert of the socialist party, expressed his commitment towards a more punitive penal code and he drove attention to the fact that the former socialist-liberal government also issued stricter measures to fight violence. At the same time, he doubted whether the three-strikes principle would be suitable to be introduced in Hungary.[304]

The extreme right Jobbik openly and clearly communicated its dissatisfaction with the performance of the criminal justice system over the last two decades and the party also blamed the 'leftist-liberal intellectuals' for protecting the perpetrators rather than the victims. Jobbik also demonstrated scepticism towards the reliability of crime statistics: 'It is commonly known that crime statistics do not reflect reality. The figures are simply garbled, so please do not refer to them.'[305]

It seems that the communication of Jobbik complied with the faulty system frame as most of the party's recorded items referred to the inability of the criminal justice system to prevent violence. In a few instances, social breakdown was also named as a cause of rising crime rates. Even though Jobbik was clearly advocating a much stricter criminal law, the party opposed the initiative of Fidesz in introducing the three-strikes bills. Jobbik claimed that the proposed modifications were insufficient as they did not implement fundamental changes into the penal code towards a more punitive direction. Jobbik's stance can be summarized as 'Yes to the principle, no to the bills!'

The liberal-green party (LMP), the human rights NGOs and the scholarly community discussed the issue in a highly similar way. They all consistently argued against and refused the practice of penal punitivity. They based their arguments on academic research that compared penal policy practices around the world and concluded that the three-strikes principle had no positive effect on public security: 'No evidence has been found to prove the efficacy of three-strikes model.'[306] Human rights NGOs also raised the issue of judicial independence that th three-strikes bills restricted. As a representative of the Hungarian Civil Liberties Union put it, 'I do not foresee any good coming out of this initiative. Judges must retain the right to have discretion in sentencing. I doubt that the draft is in accordance with the Constitutional Law of Hungary.'[307]

In the three-strikes debate only LMP and the human rights NGOs contextualised crime as a social phenomenon. In their understanding, there is a high correlation between poverty, social exclusion and crime. They also argued that without overcoming social obstacles (lack of equal opportunities and discrepancies in the social and education services) in deprived areas, harsher, more punitive crime policy measures would not reduce crime. Their communication can be characterized as a combination of the blocked opportunities and faulty system frames. The following quote from the LMP's election programme demonstrates this point:

> 'Poverty and low level of education always involve a higher chance of violating social norms. ... This is a complex problem which cannot be solved by using merely punitive crime control techniques. ... What we promote is a structurally renewed, non-discriminative set of policies granting equal opportunity to deprived communities to integrate them into the society. ... This would include the implementation of social, educational, employment and community empowering programmes all over the country. ... Besides, in order to strengthen solidarity, the different social groups have to become familiar with each others' culture, history and everyday life.' [308]

LMP denounced the positions of both Fidesz and Jobbik and accused them of deepening social conflicts and maintaining the exclusion of the marginalized groups:

> 'Notwithstanding our deepest sympathy for the victims of crime, an increase in the imprisoned population would not solve the problem of crime. It would create more trouble and jeopardize the fragile social peace.'[309]

Jobbik MP Tamás Schneider heavily criticized LMP's standpoint by claiming that the liberal-green party represented the opinion of those intellectuals who had never been exposed to the tough experiences of the countryside population:

> 'As far I as I can see, the representatives of LMP are not aware of the situation in the countryside. I am begging you to understand that Borsod[310] has been captured by gipsy crime. ... Please come and see how terrified we are by the gypsies. Even young and well-built men are attacked by them. ... I have personally experienced it several times. You can hardly see this from the Rózsadomb[311].'[312]

The discursive positions of the political actors suggest that they have widely incorporated public anxiety about crime. However, except for the liberal-green LMP, the political parties argued for more punitive penal measures mostly based on the faulty system frame. This may explain why there were so few alternatives to the three-strikes initiative during the debates of 2009 and 2010. Almost the entire political spectrum (Fidesz, Jobbik, MSZP) shared a rather penal populist discourse, which was based on the presumption that the criminal justice system was inefficient in tackling crime. Only the liberal-green party, backed by human rights NGOs and the scholarly community, attempted to counterbalance the dominance of the 'law-and-order' language.

302. Draft bills No T/8875. Issued in February 17, 2009. page 5. Available at: http://www.mkogy.hu/

303. Parliamentary speech of MP Tamás Harangozó in the plenary debate on Draft No T/580 in July 5, 2010. Transciption is available at http://www.mkogy.hu

304. Parliamentary speech of MP Gergely Bárándy in the plenary debate on Draft No T/25 in May 21, 2010. Transcription is available at http://www.mkogy.hu

305. Parliamentary speech of MP János Volner (Jobbik) in the plenary session debate on the Draft No T/25 in May 21, 2010. Transcription is available at http://www.mkogy.hu

306. Három csapás – becsapás. Standpoints of the Hungarian Civil Liberties Union, Magyar Narancs, February 25, 2009.

307. A Btk. szigorítása nem csökkentené az erőszakos bűncselekményeket, Origo, February 18, 2009.

308. Fenntartható jövő (The Sustainable Future) – programme of LMP for General Election 2010, page 76-78. Available at: lehetmas.hu

309. Fenntartható jövő (The Sustainable Future) – programme of LMP for General Election 2010, page 76-78. Available at: lehetmas.hu

310. Borsod is a region located in northeastern Hungary, which is characterized by social deprivation, high crime rates and an above-average share of Roma population.

311. Rózsadomb is an elegant district of Budapest inhabited by wealthy families.

312. Parliamentary speech of MP Schneider Tamás in the plenary session debate on the Draft No T/25 in May 21, 2010. Transcription is available at http://www.mkogy.hu

2.7. Media discourse related to the three-strikes principle – data collection

Having discussed the political discourse, now we turn to the analysis of the media discourse that emerged in connection with the three-strikes principle. By studying the media coverage of penal populism we intended to test the hypothesis according to which the media (especially the tabloids) create an atmosphere conducive to penal populism. In order to test this assumption, we carried out a content analysis of five media sources (two tabloids, two online sources, a right-wing and a left-wing daily newspaper). The relevant content was selected from the two periods when the debates about the three-strikes initiative were the most intensive. While conducting the analysis, we focused on identifying the same frames and discourses as in the case of the political actors. We also aimed to identify which media source tended to support or oppose the three-strikes initiatives.

As mentioned previously, the public debate on the three-strikes principle in Hungary was especially intensive in two periods: between February and March 2009 and between May and August 2010. Accordingly, in order to analyse the media discourse, we selected the two most popular daily broadsheets, Magyar Nemzet (centre-right) and Népszabadság (centre-left), the two most popular daily tabloids (Blikk and Bors) and the two most frequently read online news portals (Index and Origo).

By using a set of keywords[313], from both periods we selected articles that were dealing with issues related to domestic crime and criminal justice. We also filtered the false positives, which for instance discussed fiction (books, TV-series, films etc.) or criminal activity abroad. In the end, 4779 articles entered our database. As a next step, we selected those articles which were directly dedicated to the issue of the three-strikes initiative. Surprisingly, a mere 1.1 % (53 articles) of the articles fell into this category. The very low coverage suggests that neither printed nor online media showed great interest in the topic. Nevertheless, these articles are certainly indicative of the attitudes of the media towards the three-strikes principle; therefore, we coded them in the same way as we coded the items of political discourse. In order to gain a general overview of how the media discussed crime, we also took a 5 % random sample of the remaining 4 726 articles (by each media source) and we coded them as well (see Table 2 for details). When coding the articles, our aim was to find their 'main message', that is whether they implied a rather populist or non-populist understanding of the origin and nature of crime and of the criminal justice system.[314]

2.8. Analysis of the media discourses

Regarding the interpretations about the origins of crime, the faulty system frame was most frequently used in the articles directly related to the three-strikes initiative. Almost half of them (43 %) suggested that the criminal justice system is ineffective in tackling crime and that is the reason why criminal offences occur. However, this is not too surprising, given that this interpretive frame can provide the most powerful background argument for introducing the three-strikes principle. The second most frequent frame in the media was the faulty politics frame (26 %), which did not appear in the narratives of the political actors. This frame suggests that bad politics and bad and corrupt politicians may generate criminal activity. The cruel world frame was the third most common one (11 %) in the three-strikes articles: it emphasizes the cruelty of the world and the inexplicable nature of crime and that anybody can become either a perpetrator or a victim. In a couple of articles the social breakdown frame (4 %) also appeared, but it only played a marginal role. Other frames either did not appear in the media or appeared in a highly insignificant way; thus, we decided not to report them here.

313. Keywords: felony, crime, criminal investigation, penal code, crime policy, three-strikes, public security, police, penal system, verdict, violent crime, Gypsy crime, judicial system, zero tolerance.

314. In case an article cited or referred to only one type of discourse without juxtaposing it with another one or without the journalist/editor expressing their own opinion, then the article's and the actor's discourse coincided and the actor's stance was coded as the 'main message' of the article.

Table 2. The media sample of crime-related articles and three-strikes articles

	Crime-related articles (excluding three-strikes articles)	Share (%) of crime-related articles	Number of articles in the 5 % random sample	Number of articles related to the three-strikes initiative	Share of three-strikes articles (%) from all three-strikes items
Blikk	580	12.27 %	29	4	7.55 %
Bors	406	8.59 %	21	3	5.66 %
Index	1187	25.12 %	57	12	22.64 %
Origo	817	17.29 %	41	9	16.98 %
Népszabadság	652	13.80 %	33	15	28.30 %
Magyar Nemzet	1084	22.94 %	52	10	18.87 %
Total	4726		233	53	

Taking a look at the frequency of frames in the random sample of the crime-related articles, we get a fundamentally different picture. In the sample, every fourth article could be associated with the cruel world frame and almost every fifth with the faulty system frame. The social breakdown frame and the faulty politics frame come as the third and fourth most frequent frames used by the media.

Comparing the set of three-strikes articles and the random sample to each other (Table 3), it seems that the discourse about the three-strikes principle was rather different from the general media discourse on crime. Yet, in both cases such frames tended to appear in the media that lean towards populist interpretations on how the criminal justice system should be designed.

Table 3. Distribution of the main frames across the media sample

Frame	Share (%) in three-strikes articles (N = 53)	Share (%) in the random sample (N = 233)
Faulty system	43.4%	18.5%
Faulty politics	26.4%	6.0%
Cruel world	11.3%	25.3%
Social breakdown	4.3	7.5%

By disaggregating the random sample and the three strikes articles according to the most commonly appearing frames and the media sources, we obtain a more nuanced picture. In the debate about the three-strikes initiative, the faulty system frame appeared most frequently in the right-wing broadsheet (Magyar Nemzet) and in the two tabloid newspapers (Blikk, Bors). However, calculating percentages in case of the tabloids is not too meaningful due to the very low number of articles published there in connection with the topic.

The share of the faulty system frame in the random sample shows an interesting distribution across the media sources: it most frequently appears in the two broadsheets while the tabloids and the online media outlets remain well behind in this respect (Table 4).

Table 4. Frequency of the faulty system frame in the media sources

Faulty system	Share (%) in three-strikes articles (N = 53)	Share (%) in the random sample (N = 233)
Blikk	50.0%	13.8%
Bors	100.0%	19.0%
Index	41.7%	10.5%
Origo	22.2%	14.6%
Népszabadság	33.3%	30.3%
Magyar Nemzet	60.0%	25.0%

The faulty politics frame, which was the second most common in the three-strikes articles, was literally non-existent in the tabloids: only the online media and the broadsheets used this interpretive frame in connection with the issue (Table 5). Interestingly, in the random sample the faulty politics frame appears almost exclusively in the two broadsheets. This reveals that discussion about crime in general is most politicized in the left-wing and right-wing print media, which, in fact is not a too surprising finding. However, the differences in the figures also reveal that the debate about the three-strikes principle was heavily politicized and carried a more populist tone than 'ordinary' crime-related media content.

Table 5. Frequency of the faulty politics frame in the media sources

Faulty politics	Share (%) in three-strikes articles (N = 53)	Share (%) in the random sample (N = 233)
Blikk	0.0%	3.4%
Bors	0.0%	0.0%
Index	33.3%	1.8%
Origo	22.2%	0.0%
Népszabadság	40.0%	15.2%
Magyar Nemzet	20.0%	13.5%

Finally, it seems that the cruel world frame in the three-strikes debate was specific to the tabloids and especially to the right-wing broadsheet (Table 6). Yet, in the random sample this frame appears most frequently in the analysed media sources; thus, we can infer that this is the most dominant interpretive frame in the media concerning crime in general. Only Origo, one of the online news portals, is an exception to this rule: we could not identify the cruel world frame in any of its articles.

Table 6. Frequency of the cruel world frame in the media sources

Cruel world	Share (%) in three-strikes articles (N = 53)	Share (%) in the random sample (N = 233)
Blikk	25.0%	31.0%
Bors	33.3%	33.3%
Index	8.3%	28.1%
Origo	0.0%	0.0%
Népszabadság	0.0%	24.2%
Magyar Nemzet	30.0%	36.5%

2.9. Conclusions of the Hungarian case-study

These observations reveal that the political and the media discourses about the three-strikes initiative were radically different. In addition, concerning the interpretation of the origins of crime, they also sharply differ from the public discourse. While the political discourse was characterized by populist arguments, the media was more balanced in this respect. The media also tried to take a rather neutral position in the debate, except for the two politically oriented broadsheets: the right-wing newspaper mostly supported the initiative while the left-wing journal consistently objected it.

The frame analysis also reveals that tabloids are certainly not more populist than other media sources, which brings weak evidence in support of the hypothesis that the media fuels penal populism. In general, the Hungarian media discourse seems to have been much more balanced in discussing the three-strikes principle than the political actors and in general it also shows less populist interpretations of crime than politicians demonstrate. Although frames that can be connected to penal populism appear in the media everyday, most often the media remain rather neutral and descriptive when reporting about crime. However, this does not exclude the possibility that in those instances when the media spread populist approaches about crime, they actually meet punitive public sentiments and indirectly reinforce them.

At the same time, we also have to emphasize that the more liberal and non-populist interpretations of crime are almost entirely missing from our media sources, which is surprising given that those interpretations are the dominant ones in the public. This suggests that the Hungarian media discourse is rather limited in terms of how criminality is explained. It is also worth mentioning that while the punitive turn of the criminal law met public demand, the political and the public discourses have been radically different from each other in terms of interpreting the origins of crime. This mismatch may take its toll in the long run: while harsher sentences may satisfy the generally punitive public, they fail to offer remedies to social tensions, growing poverty and declining social values, which the public considers to be the main causes of crime. In short, the three-strikes principle does not treat the root of the problem.

3. CASE STUDY ON THE UNITED KINGDOM
The media effect of the 2011 London riots on public attitudes to justice and the impact of media on attitudes toward the police

3.1. Introduction

First, this study reports on the impact of media coverage of the 2011 riots in London on attitudes toward justice[315]. Second, through the analysis of an extensive media sample covering three years, it also studies the impact of the media on attitudes toward the police in London[316]. In the next section we look at the effect of the highly mediatised and politically much debated event of the 2011 London riots on punitive sentiments and public fear of crime.

The summer 2011 riots and looting in London and a number of other English cities have caused much debate. London Metropolitan Police Service's own postcode analysis of the reported crime on the nights shows that just under 1% of the London postcodes were immediately affected by disorder or looting (according to police recorded inci-

315. The first findings of this study have been published in Hohl, K., Stanko, E. and Newburn, T (under review) 'The effect of the 2011 London disorder on public opinion of police and attitudes towards crime, disorder and sentencing', *Policing a Journal for Policy and Practice*

316. This is an extended version of a book chapter published in Jackson, J. Bradford, B., Stanko, E. and Hohl, K. (2012) *Just Authority? Trust in the police in England and Wales*, Oxon: Routledge.

dents) and less than .05% of Londoners reported being victimised.[317] Yet, the impact of the disorder was much wider, both on the public and politics. The disorder quickly dominated the media, with 24-hour live reporting, intensive coverage in the press, and continuous high-volume twitter commentary. The London disorder caused much political debate, with politicians readily labelling rioters and looters sheer criminals, and calls for tough punishment. Indeed, those convicted of criminal offences during the disorder received harsh sentences (Ministry of Justice, 2012).

Although the relationship between the public and the police is likely to have been a factor in enabling the disorder and looting, the disorder had deeper roots in feelings of social exclusion, perceived social injustice and the lack of prospects (Morell et. al 2011). This shows in the public response. The riots were a threat to social order, and signalled damage to the social fabric (Bradford and Jackson 2011). Rioters and looters did not show respect for the property of fellow Londoners, and also threatened the life of some. A significant proportion of the participants in the disorder and looters were teenagers and young adults (Morell et. al 2011). In this respect, it is, therefore, not surprising that our study finds an increase in the proportion of Londoners who feel young people do not have enough respect for traditional values. We also found a substantial increase in the demand for harsher punishment for law breakers. In sum, it appears the riots did not have a measurable effect on the fear of crime, but have directly resulted in a sharp increase in public punitivity.

3.2. The effect of the London riots on public punitivity: data and methodology

We use survey data from the Public Attitude Survey of the Metropolitan Police London (METPAS). Face-to-face interviews were held continuously throughout the year, with roughly 1 000 interviews held per month and a total annual sample size of 12 000 respondents. The survey uses a random sampling procedure and is representative of Londoners aged 16 and over. The METPAS includes a wide range of questions on experiences, perceptions and attitudes towards the police and crime, and also collects socio-demographic data. In addition to the survey, in the analysis we use Metropolitan police crime records of the number of incidents in each postcode and borough during the summer disorder. The following survey measures are included in the analysis:

Fear of crime: Respondents rate on a four-point scale from 'very safe' to 'very unsafe' how safe they feel walking alone after dark in their local area. Respondents give a 'not applicable' and 'don't know' response option.

Perceptions of crime and disorder: Respondents rate to what extent they perceive general crime, general violence, knife crime, drug dealing and use, vandalism and graffiti and teenagers hanging around a problem in their local area. Responses have been dichotomised into 'a problem' and 'no problem/don't know'.

Punitivity and authoritarianism: Respondents rate on a five-point scale from 'strongly agree' to 'strongly disagree' (with a don't know option) to what extent they agree with the statements that 'people who break the law should be given stiffer sentences' and 'young people today don't have enough respect for traditional values'.

3.3. Results

Table 7 shows public levels of fear of crime before and after the riots. We find an isolated, statistically significant change, a 6% drop in the percentage of respondents who say they feel 'fairly unsafe' in the boroughs most affected by the riots, but there is no evidence for a systematic change in fear of crime.

317. These data are calculated using crimes flagged as related to the disorder. This is an underestimate, but it clearly demonstrates how localised the disorder was.

Table 7. Pre- and post-riot differences in fear of crime.

Percentages	very safe	fairly safe	unsafe	very unsafe
How safe do you feel walking alone after dark				
Boroughs with <50 riot-related incidents				
Pre-riots (1 July - 6 Aug)	22	58	11	8
Post-riots (9 Aug - 30 Sep)	21	56	14	9
Boroughs with 50-100 riot-related incidents				
Pre-riots (1 July - 6 Aug)	21	61	12	6
Post-riots (9 Aug - 30 Sep)	25	58	10	7
Boroughs with >100 riot-related incidents				
Pre-riots (1 July - 6 Aug)	19	54	**16**	11
Post-riots (9 Aug - 30 Sep)	22	58	**10**	10

LEGEND: Difference stat. significant at 95% confidence level marked in **bold**. Sample size n=2605.

SOURCE: *Metropolitan Police Public Attitudes Survey*, 2011. Weighted data.

Table 8. Pre- and post-riot differences in public perceptions of crime, by number of riot-related incidents in the borough.

Percentages	Pre-riots 1 July - 6 Aug	Post-riots 9 Aug - 30 Sep
General crime		
<50 incidents	**44**	**57**
50-99 incidents	44	40
>100 incidents	49	46
General violence		
<50 incidents	**34**	**46**
50-99 incidents	32	27
>100 incidents	34	38
Vandalism and graffiti		
<50 incidents	41	50
50-99 incidents	38	33
>100 incidents	41	40
Teenagers hanging around		
<50 incidents	50	58
50-99 incidents	44	43
>100 incidents	48	49
Knife crime		
<50 incidents	14	15
50-99 incidents	15	14
>100 incidents	19	16
Drug dealing and using		
<50 incidents	19	21
50-99 incidents	19	20
>100 incidents	20	21

LEGEND: Difference stat. significant at 95% confidence level marked in **bold**. Sample size n=1420. Weighted data.

SOURCE: Metropolitan Police Public Attitudes Survey, 2011.

Turning to the effect of the London riots on public attitudes of crime and disorder, Table 8 shows the percentage of respondents that perceive a range of crime and disorder issues as a problem in their local area, again subdivided according to the number of disorder-related incidents in the respondent's borough. There are no statistically significant changes observed in public perceptions of graffiti, vandalism, teenagers hanging around, drug dealing and selling or knife crime being a problem in the local area. The percentage of respondents that perceive general crime and general violence

as a problem in their area increased by a statistically significant 12 % in the boroughs only mildly affected by the disorder. No statistically significant changes are observed in the boroughs that had a medium or high number of disorder-related incidents. Overall, there is no evidence that the disorder changed the respondents' perception of crime and disorder problems. Rather, the disorder stirred punitive sentiments.

Table 9. Pre- and post-riot differences in authoritarian and punitive sentiments.

Percentages	strongly agree	agree	neither agree/nor disagree	disagree	strongly disagree	don't know
"People who break the law should be given stiffer sentences"						
Boroughs with <50 riot-related incidents						
Pre-riots (1 July - 6 Aug)	**29**	38	**18**	**8**	1	6
Post-riots (9 Aug - 30 Sep)	**45**	36	**13**	**2**	1	3
Boroughs with 50-100 riot-related incidents						
Pre-riots (1 July - 6 Aug)	**26**	37	**23**	7	1	6
Post-riots (9 Aug - 30 Sep)	**44**	31	**14**	6	0	5
Boroughs with >100 riot-related incidents						
Pre-riots (1 July - 6 Aug)	**36**	36	17	6	1	**4**
Post-riots (9 Aug - 30 Sep)	**43**	37	14	4	<1	**2**
"Young people today don't have enough respect for traditional values"						
Boroughs with <50 riot-related incidents						
Pre-riots (1 July - 6 Aug)	**26**	46	14	**8**	1	**5**
Post-riots (9 Aug - 30 Sep)	**40**	41	11	**5**	1	**2**
Boroughs with 50-100 riot-related incidents						
Pre-riots (1 July - 6 Aug)	**23**	**43**	**17**	10	1	7
Post-riots (9 Aug - 30 Sep)	**42**	**36**	**12**	6	1	4
Boroughs with >100 riot-related incidents						
Pre-riots (1 July - 6 Aug)	**30**	37	16	**10**	**3**	**4**
Post-riots (9 Aug - 30 Sep)	**41**	38	13	**6**	**1**	**1**

LEGEND: Defference stat. significant at 95% confidence level marked in **bold**. Sample size n=3077.

SOURCE: *Metropolitan Police Public Attitudes Survey, 2011.* Weighted data.

Table 9 shows how the disorder has affected punitive and authoritarian sentiments. The percentage of respondents who strongly agree with the position that law-breakers should be given harsher sentences increased by 9% -16%, to a new average of 44%. We also find substantially greater agreement with the authoritarian statement that young people do not show enough respect for traditional values. These changes are observed across boroughs with low, medium and high numbers of disorder-related incidents. These changes in punitive and authoritarian sentiments are of remarkable magnitude: disorder and looting were experienced as an assault on social order, and this leads to people saying there is a greater need of punishment and a need for affirmation of shared values.

3.4. Impact of the media on public attitudes toward the police in London – data and methodology

The empirical study presented here aims to improve existing research in two ways. First, methodologically, by systematically relating a large-scale media analysis of police coverage in five agenda-setting newspapers to a large-scale population representative survey fielded continuously over a three-year period from 2007 to 2010. And second, conceptually, by advancing an explanation of 'media effects' on public confidence that is grounded on theories about the factors that underpin trust and confidence in the police.

More specifically, based on the literature review introduced in sections 1.1 and 1.2, the study aims to test whether press reporting on community engagement has a positive

effect on public confidence in the police; and if reporting on the nature of police treatment in direct encounters affects public confidence in the police. Finally, the study also intends to examine whether reporting on police effectiveness in dealing with crime or reporting on police engagement and fair treatment has a stronger effect on confidence in the police.

In order to test the above hypotheses, the study combines a large-scale population representative survey of Londoners interviewed between April 2007 and March 2010 with a media analysis that measured — through manual coding of 9 000 articles — various aspects of police coverage in five major London newspapers over the same period. In the survey respondents were asked which newspaper(s), if any, they read regularly. Together with the interview date, this allowed assigning the media measures for this particular newspaper and a time point to every observation in the survey dataset. The survey data come from the Public Attitude Survey (PAS) of the Metropolitan Police London (Met). Face-to-face interviews are held continuously throughout the year. The randomly selected annual sample of 20 000 respondents is representative of Londoners aged 16 and over. The PAS includes a wide range of questions on experiences with, perceptions of and attitudes toward the police and crime as well as socio-demographic characteristics.

The content analysis of newspaper reporting covers articles published during the fieldwork of the PAS between April 2007 and March 2010. Monthly measurement intervals were chosen as this is the smallest time interval that allows the PAS sample size to remain large enough for separate analyses of different newspaper readerships. The five agenda-setting newspapers (the Guardian, the Times, the Daily Mail, the Mirror and the Sun) were selected as to cover quality broadsheets, mid-market papers as well as tabloids and to represent a wide range of political leanings and worldviews. The articles were retrieved from Lexis-Nexis searching for articles with the term 'police', 'cops', 'Yard' or the 'Met' in the headline and 'London' anywhere in the text. Within any given newspaper and month, all articles were coded if there were less than 50 articles. If a newspaper published more than 50 articles with any of the keywords in it within a month, a random sampling procedure was used to select 50 articles for coding, with replacement of 'false positives'. False positives are articles that are duplicates, fictional, historical or otherwise outside the scope of the study. For example, the reporting on the Madeleine McCann case of a missing British girl in the summer of 2007 has been excluded (unless British police were explicitly mentioned in the article) because it was the Portuguese police investigating the case. A total of 9 290 articles were selected and coded: 40.8 % of those were false positives; so, the media measures are estimated based on 5 495 articles. A survey question on newspaper readership included in the PAS was used to match respondents to the media 'treatment' they are most likely to have received.

The total sample size of the survey is 61 436 respondents. Of these, 25 439 respondents read one of the five newspapers and were included in the study. A further 4 218 respondents read two or more of these five papers. These were excluded from the study because one would have to make specific assumptions about how reading more than one newspaper plays out in order to be able to decide whether one can assign them to a 'primary' newspaper, or alternatively average, multiply or otherwise aggregate the 'media treatments' the respondents received from the two or more newspapers. Making such assumptions is difficult and arguably not necessary to answer the research questions at hand. Excluding these cases should not introduce any bias as the purpose of this study is to generalise on the effect that exposure to the five newspapers has on public opinion — for this purpose it is more sensible to focus on those

respondents who received 'undiluted' treatment rather than a mix of treatments when it is not clear how multi-readership changes the effect.

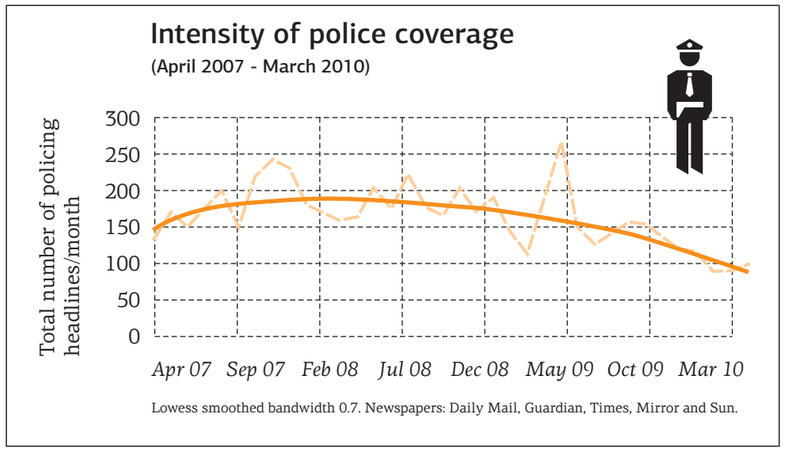
The concepts examined here were measured in the survey either by single items or by scales constructed from several items. Details are discussed in Hohl (2012) but the key concepts were:

- *Public confidence* in the police
- *Motive-based trust* in the police
- *Intensity of media reporting,* measured by month
- *Proportions of articles* mentioning police-relevant topics per month.

3.5. Descriptive analysis of police portrayals

Before testing the set of hypotheses, this section describes how reporting on the police developed over the three-year period, and as this will become important later on, the section also describes how police portrayals differ between newspapers. Figure 2 shows the observed and the smoothed trajectory of the intensity of police coverage across the five agenda-setting newspapers.

Figure 2. Total number of articles referring to police in the headline.



Police coverage increased from 2007 to 2008 and then declined from 2009 onwards. On average, each newspaper published 33 articles per month, with a standard deviation of 19.25 articles, a minimum of 7 articles and a maximum of about 100 articles per month. There is, however, much variation within this three-year period, and the overall trend is dented with blips and spikes. The spikes coincide with notable crime and policing events.

Overall, the majority of the newspaper articles remain neutral or ambiguous (40.1%, and 20.3%, respectively). Negative articles tend to outweigh positive articles (25.5% negative articles compared to 3.3% positive articles). This finding might be explained by what newspapers deem newsworthy. Newspapers are the most critical media outlet, as opposed to movies and television which paint a much more positive picture, especially fictional and semi-fictional formats (Reiner 2010). Figure 3 shows a slight trend toward a more negative reporting, although the three-year period might not be enough to establish a long-term trend. The tone of police reporting is volatile and depends on current events. Unsurprisingly, we observe the

most negative reporting in the months of intense coverage of major police scandals. The months in which positive reporting outweighed negative police reporting are few. Positive reporting also outweighed negative reporting in the comparatively eventless and scandal-free months when policing coverage was largely confined to current crime investigations.

Figure 3. Tone of press reporting over time.

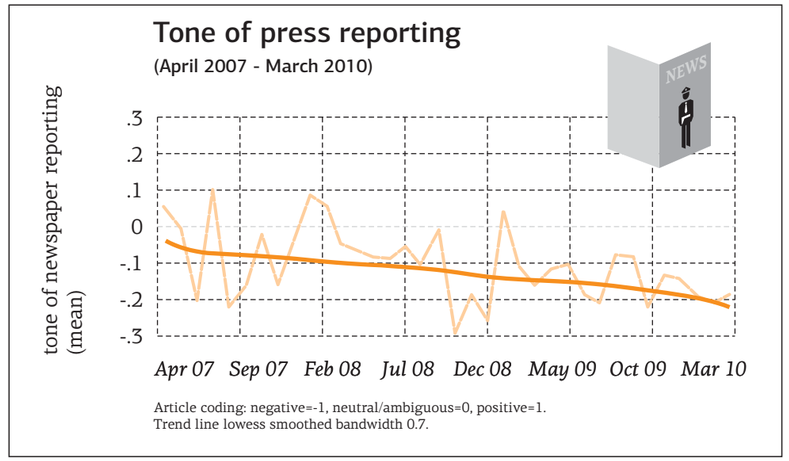


Figure 4. Topics in media coverage of the police over time.

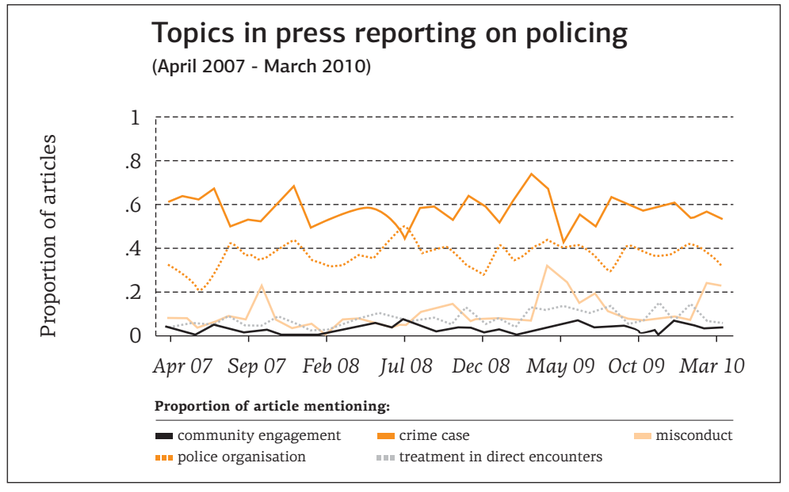


Figure 4 shows trends in the contents of the newspaper articles through the lens of the 'confidence model'. Across time, the composition of newspaper reporting remained largely stable with no trends emerging. There are, however, a few spikes which coincide with certain key events. Most articles are about police investigations in a specific crime case (57%), less than 40% comment on the police organisation. The evaluation of police effectiveness in handling criminal cases is mostly neutral (47%) and relatively rarely depicts the police as incompetent or ineffective (24%) in handling cases.

In contrast, the majority of articles that refer to the police as an organisation are

critical (34%) or ambiguous (37%) in their evaluation. The effectiveness of the police organisation as a whole is evaluated less positively than police effectiveness in specific crime cases. Only 8% of the newspaper articles explicitly comment on how the police have treated a member of the public in a direct encounter. 90% of these articles report disrespectful or discriminating behaviour by police officers, only 10% explicitly mention fair and respectful treatment or the police being helpful to a member of the public. This means that a key driver of confidence, fair and respectful treatment, is reported in less than 1% of the total number of articles on policing.

Although cases of police misconduct receive greater attention (8% of the total number of articles) they are infrequent and event-driven: 56% of the articles reporting on misconduct were recorded in the months of policing the G20 protests and the subsequent investigations into potential police misconduct.

Police community engagement (i.e. acts demonstrating that the police listen to the concerns of the local community, respond to them or show themselves transparent and accountable for what they are doing to address local issues) are mentioned in less than 3% of the articles, again, with no time trend emerging. In summary, police *effectiveness,* which according to the confidence model is the least important driver of confidence, gets routinely evaluated. In contrast, the two most important drivers of confidence, *police community engagement* and *fair treatment* receive little media attention. Less than 3% of the articles mention the former and only 1% of the articles mention the latter. This pattern is stable with no trends emerging over the three year period.

This finding has two major implications: firstly, because reporting on police fairness and engagement is rare and the bulk of media reporting focused on the least important driver of confidence, police effectiveness, newspaper reporting is unlikely to have a strong impact on public confidence. Reporting on acts of police community engagement and on how the police treat members of the public in direct encounters might be too few and far between to have an impact on public confidence in the police. Secondly, given that the media do not report on police community engagement and fair treatment, the police have to use means of direct communication to communicate engagement and procedural fairness to the wider public that does not come into regular contact with police officers.

3.6. Descriptive analysis of confidence trajectories

The study considers five agenda-setting newspapers, their basic characteristics are summarised in Table 10.

Table 10. Basic description of newspapers.

Newspaper	Type	Political orientation
The Times	Broadsheet	Right
The Guardian	Broadsheet	Left
The Daily Mail	Mid-market	Right
The Sun	Tabloid	Right
The Mirror	Tabloid	Left

Focusing on police reporting, compared to the other newspapers, the Sun and the Mirror publish, on average, the lowest *absolute* number of police headlines. That is not surprising given they are tabloids which generally contain much fewer articles than broadsheets. If we take into account the overall number of articles within one edition, the *proportion* of articles on policing is highest in the tabloids and lowest in the broadsheets (Reiner 2010). The Daily Mail has, on average, the highest level of police coverage and also the greatest variability over time, appearing to be more story-driven

Figure 5. Media coverage of and public confidence in the police.

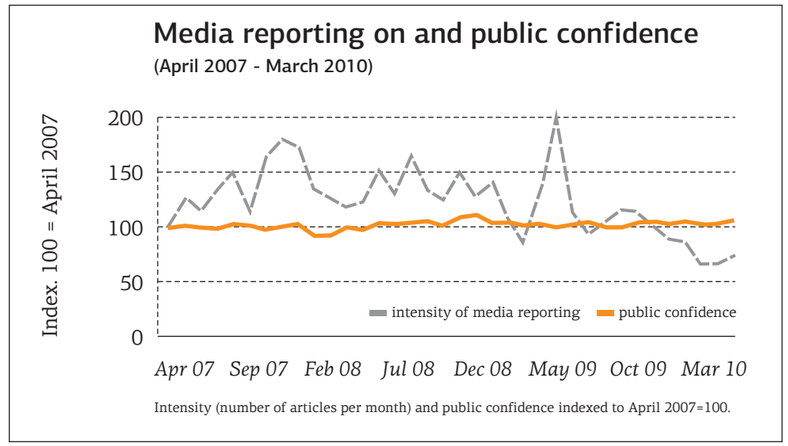
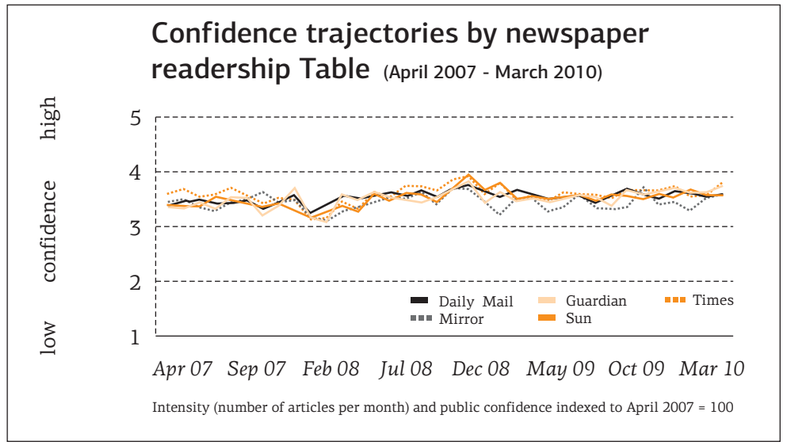


Figure 6. Confidence in the police by newspaper readership.



than the Guardian and the Times, which have very similar levels of policing coverage and much lower variation in the number policing headlines per month.

Figure 5 plots the development of public confidence against the intensity of media reporting. We observe a slight dip in confidence in February 2008 which appears paradoxical given that the media coverage of the police included — largely due to the Ipswich murder trial — unusually positive reporting. We also observe a small temporary increase in confidence in the month after Sir Ian Blair's resignation (October 2008). However, these temporary changes are very small and overall, public confidence has been very stable and slightly increased over the three-year period. Yet, as discussed above in detail, newspaper coverage of policing has varied greatly over the same period, with high profile events and stretches of both high and low intensity media coverage.

The virtually absent variation in public confidence over time in the presence of great variation in media coverage is evidence against the hypothesis that changes in the intensity of media coverage have an impact on public opinion. In the descriptive analysis above we have seen that media coverage does not only vary greatly over time,

but also between newspapers. The five newspapers differ in their coverage of policing with regard to topics, tone and intensity of coverage. This is to be expected given that the newspapers selected for this study were chosen to represent a wide range of political leanings, worldviews and readerships, and include tabloids as well as broadsheets. Perhaps, in averaging over newspaper readerships, we are masking co-variation between media reporting and confidence within newspaper readerships. Figure 6 shows the evolution of confidence for the different newspapers and Table 11 tests whether the observed differences in confidence levels between newspapers are statistically significant in a simple linear regression model[318]. Albeit statistically significant, the differences in confidence levels between newspapers are small. This is surprising given the amount of variability in policing coverage and worldviews between the newspapers.

Table 11. Linear regression predicting public confidence in the police.

Response variable	**coefficient**	
Confidence in the police		
time	0.166	***
time (squared)	-.0029	***
Daily Mail (ref.: Sun)	.0333	**
Mirror (ref.: Sun)	-.0593	***
Guardian (ref.: Sun)	0.011	
Times (ref.: Sun)	.0738	***
Intercept (i.e. mean Sun)	3.35	***
* p-value <0.05 ** p-value <0.01 *** p-value<0.001		
Sample size n=23.833		

The confidence trajectories of the five newspaper readerships are largely parallel, yet at a few time points they appear out of sync. These differences are small, yet might point towards different newspaper readerships being affected by different types of events and responding differently to the same event. And, perhaps it is not so much the intensity, but the contents of policing coverage that matters. With this observation in mind, let us now turn to the hypotheses this study set out to test.

3.7. The effect of media reporting on public confidence in the police

Given the stability of patterns of media reporting and public confidence over this three-year period, the following regression analysis shifts the focus from an over-time perspective to how media reporting affects public levels of trust cross-sectionally, pooling data from all three years. To probe the hypotheses formulated above, the regression analysis tests how reporting on police community engagement, police fairness (including the extreme case of its absence, misconduct) and police effectiveness affects public confidence in the police. Given the observed differences between newspapers, regressions are run separately for each newspaper. Because the data are pooled across three years, a time variable is introduced to control for any trending in public confidence that is due to something other than the explanatory variables in the model. Finally, to separate the impact of contents of media portrayals from a potential 'any publicity is good publicity' effect, the models control for intensity of media coverage (indexed to 1=April 2007 within each newspaper). The results are shown in Table 12.

The first hypothesis states that reporting on police activities stating that the police listen, understand and respond to the issues and concerns of the local community (engagement) has a positive impact on public confidence. Controlling for other characteristics of newspaper reporting, the results show a confidence-enhancing effect on the Times readership of reporting on community engagement. A 10-point increase in the

318. 'Confidence' is measured on a 5-point scale and, thus, on an ordinal rather than a continuous variable, rendering ordinal regression the most appropriate regression method. Ordinal regression has been tested for this and all subsequent regression analyses presented in this paper. The findings do not differ from those produced by standard linear regression method and thus the latter been chosen for ease and parsimony of presentation.

319. Only the full model is presented here. A series of regression models that separately tested the effect of reporting on community engagement, fair treatment and police effectiveness (controlling for intensity and time) have been fitted; the results from these smaller models do not change the picture that emerges from the full model.

320. Note that the media variables in Table 12 are measured as proportions of articles rather than percentages of articles (proportions and percentages out of the total number of articles). The regression coefficients in the table are interpreted as follows: For The Times readers, a 1-point increase in the proportion of articles mentioning community engagement (range 0 to 1) is equivalent to a 100-point increase in the percentage of articles mentioning community engagement and associated with a 3.71 point increase in confidence (range 1 to 5).

Table 12. Linear regression predicting the effect of media reporting on public confidence.[319]

Response variable	**Daily Mail**	**Sun**	**Mirror**	**Guardian**	**Times**
Confidence in the police	*coeff.*	*coeff.*	*coeff.*	*coeff.*	*coeff.*
Full model					
time	0.015***	0.007***	-0.002	0.008*	0.003
intensity	0.342**	0.205	0.176	-0.210	0.440
intensity (squared)	-0.091*	-0.057	-0.033	0.071	-0.224
engagement	-0.670	0.357	0.791	-0.926	3.710***
misconduct	-0.409	0.391***	0.228	0.006	-0.205
treatment					
- poor	-0.156	-0.013	-0.247	-0.340	-0.534
- good	1.230	1.580***	-2.110	6.210**	0.968
crime case effectiveness					
- neutral	0.544*	0.194	0.245	-0.152	-0.660**
- negative	0.067	0.498**	0.268	0.111	0.688*
- positive	0.308	0.032	-0.828***	-0.129	1.630***
- ambiguous	1.090**	0.208	-0.078	-0.705	0.092
organisation effectiveness					
- neutral	-0.392	0.273	-0.395	-0.049	0.208
- negative	-0.133	0.630**	-0.155	-0.369	0.380
- positive	-0.630	-0.286	-0.098	0.220	-1.620***
- ambiguous	-0.423	0.379**	0.035	0.277	-0.461
intercept	2.990***	2.930***	3.300***	3.660***	3.310***
Sample size	6309	8295	3291	2678	3260

* p-value <0.05 ** p-value<0.01 *** p-value<0.001

Descriptive statistics of variables in the model:

CONFIDENCE IN THE POLICE: 1-low 5=high

TIME: min=1 max =36; Intensity: Indexed to 1-April 2007

ALL OTHER VARIABLES: Proportion of articles out of the total number of articles within month and newspaper

Table 13. Linear regression predicting the effect of media coverage on confidence.

Response variable	**Daily Mail**	**Sun**	**Mirror**	**Guardian**	**Times**
Confidence in the police	*coeff.*	*coeff.*	*coeff.*	*coeff.*	*coeff.*
Model 1					
engagement	-1.96***	0.032	0.457	-0.705	27**
- engagement*trust	-.882**	.409*	0.189	-0.504	-0.476
Model 2					
misconduct	-0.042	.187*	0.125	0.267	-0.302
- misconduct*trust	0.032	0.030	-0.024	-.357**	-0.239
Model 3					
treatment					
- poor	-.568*	-0.188	-0.188	-0.292	-0.347
- poor*trust	-.382*	-.312*	-.312	-.655***	-0.042
Model 4					
treatment					
- good	0.672	.907*	-0.960	3.570	1.630***
- good*trust	0.047	0.447	1.550	2.230	-0.367

Coefficients for all other variables in the model (full model, table 4) not displayed

* p-value <0.05 ** p-value<0.01 *** p-value<0.001

Descriptive statistics of variables in the model:

CONFIDENCE IN THE POLICE: 1-low 5=high mean=3.54

MOTIVE-BASED TRUST: min=3.71 max =2.86 mean=.14

TIME: min=1 max=36; Intensity: Indexed to 1=April 2007.

ALL OTHER VARIABLES: Proportion of total number of articles mentioning the category, e.g. engagement

percentage of articles reporting on community engagement is associated with a 0.37 point increase in confidence (measured on a five-point scale).[320] To put this effect size into perspective, we need to remember that articles on community engagement are rare. The Times publishes, on average, a mere 1.3 articles a month mentioning an act of police community engagement.

The effect of newspaper reporting on community engagement is not statistically significant in any other newspaper readership. To this point the empirical analysis has not accounted for the close relationship between confidence — a belief about the competence and capabilities of the police to fulfil and act according to their specific roles — and motive-based trust, which is based on perceived moral alignment between the police and the public. Table 13 shows the results of a regression model that includes an interaction effect between reporting on community engagement and a measure of motive-based trust. The interaction effect is used to test whether the effect media coverage has on public confidence is contingent on the level of motive-based trust.

The findings suggest that the effect that newspaper reporting about police engagement in the community has on confidence in the police depends on the level of motive-based trust in the police: the greater a Sun reader's motive-based trust in the police, the greater the positive impact of reporting about community engagement on their confidence in the police. For the Daily Mail readers, reporting on acts of community engagement has a negative effect on confidence, and the negative impact increases as the Daily Mail reader's motive-based trust in the police grows. We can only speculate about potential explanations. Perhaps the reported acts of community engagement are at odds with either the image the Daily Mail readers have of the police — tough crime fighters rather than 'social workers' — and might have been directed to groups of the population that Daily Mail readers do not identify or sympathise with.

To this point, the hypothesis is supported with modifications: newspaper reporting on police community engagement has a positive impact on confidence in some members of the public, but a zero or even a negative impact on others. The effect on confidence in the police depends on which newspaper readership a respondent belongs to (no effect on the Mirror and the Guardian readers), and within some readerships also on the level of motive-based trust in the police (the Sun and the Daily Mail readers). Such an interaction effect is also observed as we move to the second hypothesis.

The second hypothesis states that reporting on how the police treat members of the public in direct encounters has an impact on public confidence in the police. For the Guardian and the Sun readers, reporting on fair and respectful treatment has a low confidence enhancing effect. Again, it is important to remember that explicit reporting on police officers treating people with fairness and respect is rare — it is mentioned in less than 1% of the articles. Whether and to what extent reporting on poor treatment has a negative impact on confidence depends on the level of motive-based trust. Poor treatment shakes confidence in the police more in those whose confidence is tied to high levels of motive-based trust. Reporting on police misconduct only has a negative impact on the Guardian readers, with the effect again being dependent on the level of motive-based trust. In contrast, reporting on police misconduct appears to enhance confidence for the Sun readers (regardless of their level of motive-based trust). Much of the reporting on misconduct between April 2007 and March 2010 pertained to the shooting of de Menezes, who police officers believed to be a potential terrorist, and the G20 protests. It might be speculated that this effect is explained by the police's seemingly 'tough' approach towards threats to social order and potential terrorists, resonating with what the Sun readers expect from the police. In summary, the hypothesis finds partial support. Fair treatment has a small positive effect on some readerships. The extent to which reporting on poor treatment has a negative effect on confidence depends on the level of motive-based trust. Effect sizes are small and only statistically significant in some of the readerships.

The third hypothesis states that reporting about police effectiveness should have a small positive impact on confidence. Across readerships, most reporting about police effectiveness has no statistically significant effect on confidence. A few regression coefficients are statistically significant, for example reporting that depicts the police as ineffective appears to have a positive impact on the Sun readers, and coverage that is critical of the police organisation has a positive impact on Times readers. Overall, an inconsistent and inconclusive picture emerges. Interaction effects with motive-based trust have been tested, but do not change the picture.

It follows that the findings are also inconclusive with regard to the fourth hypothesis. It postulates that, based on the confidence model, we would expect the effect of newspaper coverage of police community engagement and procedural justice to be greater than the effect of reporting on police effectiveness. The study finds evidence for the effects that reporting on engagement and procedural fairness has on confidence in some readerships (sometimes conditional on motive-based trust), yet effect sizes are small and such reporting is rare. Less than 3% of the articles on policing make reference to acts of police community engagement, less than 8% explicitly mention how members of the public have been treated in the hands of police officers. In contrast, police effectiveness is frequently evaluated, yet reporting on the police's handling of a crime case or on the police organisation as a whole has no statistically significant effect in most readerships; the few statistically significant effects are small and produce an inconsistent and inconclusive picture.

Finally, the results provide evidence for an 'any publicity is good publicity' effect — higher intensity in policing coverage is associated with higher levels of confidence. Yet, with the exception of the Daily Mail readership, the effect ceases to be significant once all the other characteristics of media coverage considered in this analysis are taken into account.[321]

3.8. Conclusions and implications of the case study on the United Kingdom

This study tested three main hypotheses emerging from the confidence model: (i) whether press reporting on community engagement has a positive effect on public confidence in the police; (ii) if reporting on the nature of police treatment in direct encounters affects public confidence in the police; and (iii) finally, whether reporting on police effectiveness in dealing with crime or reporting on police engagement and fair treatment has a stronger effect on confidence in the police. The empirical study combined a comprehensive content analysis of reporting on policing in five agenda-setting newspapers with a large-scale population representative survey.

Over the studied three-year period between April 2007 and March 2010, media coverage of policing varied greatly. There were periods of high as well as low intensity of press coverage as well as sharp peaks caused by high profile events. This variability in media coverage is not matched by co-variation in public confidence. Confidence was on a continuous trajectory of slight increase over the three-year period. Whereas the five newspapers differ in worldviews, political leaning and, as the analysis has shown, their coverage of policing, differences in confidence levels between newspaper readerships remained small throughout the three-year period. The public's confidence in the police is very stable and appears largely immune to the ups and downs of press reporting and does not follow the dividing lines of the newspapers they read. Pooled across three years, there is, however, enough varia-

321. Result of hierarchical model testing.

tion in the confidence variable to draw some conclusions on the general patterns in the associations between press reporting and public confidence.

This study was designed to test the impact that reporting on police community engagement, procedural fairness and police effectiveness has on public confidence in the police. The findings suggest that reporting on police effectiveness does not have a statistically significant effect, whilst reporting on police community engagement and procedural fairness can have a statistically significant effect on public confidence — with four major qualifications. Firstly, the effect sizes are small. Secondly, reporting on community engagement and positive evaluations of procedural fairness are sparse — less than 3% of articles mention acts of community engagement and less than 1% explicitly mention police officers treating members of the public with dignity, fairness and respect. Incidents of police misconduct are rare but when they do occur, they get covered extensively. A total of 8% of press reporting mentions a case of police misconduct, 7% of articles explicitly mention members of the public being treated disrespectfully or unfairly in the hands of police officers. Reporting on engagement and fair treatment appears to be too infrequent to have a substantial effect on public confidence. And although most reporting is in relation to ongoing police investigations, there is no convincing evidence for an effect of evaluations of police effectiveness on trust. This might, at least in part, explain why this study keeps the tradition in media studies of finding little evidence for a media effect.

Third, the effect of reporting on community engagement and procedural fairness on public confidence is contingent on the level of motive-based trust. A note of caution is required here. Whilst the distinction between trust and confidence is conceptually useful, the empirical separation is less clear. It is often difficult to determine whether a survey measure is tapping into one or another (Siegrist 2010). In this study, there is a close analogy between several of the items that compromise the motive-based trust indicator and the definition of the 'poor treatment' code in the media analysis; this might be reflected in the observed interference of motive-based trust in the relationship between reporting on procedural fairness and public confidence in the police.

Fourth, the observed media effects differ between readerships and are not statistically significant in all of them. This might suggest that different readerships are affected by different types of events and affected differently by the same type of event. Readers of the Mirror and the Guardian are mostly affected by reporting on police misconduct and poor treatment of citizens in direct encounters. In contrast, the confidence of the Sun readers in the police is not negatively affected by reporting on misconduct. On the contrary, it appears to enhance their confidence in the police doing a good job. At the same time, reporting on fair and respectful treatment and community engagement has, contingent on the level of motive-based trust, a confidence enhancing effect. The Daily Mail readers differ from all others in that they are negatively affected by reporting on police community engagement. What emerges might be a reflection of the diversity of policing images that are held within the population. While levels of confidence in the police might be similar for different readerships, what the police mean to them might differ. The findings match at least the stereotypical ideas of newspaper readerships. The police might be a symbol of authoritarian values and the preservation of social order to the Sun and the Daily Mail readers, and within that frame of reference, reporting on misconduct might be interpreted as a sign of the police being 'tough' on potential terrorists (de Menezes) and 'hippie' protesters (G20), whilst police community engagement might be read as a signal of 'too soft' policing or a signal of inclusion into groups some of the readers might not approve of. In contrast, the Guardian readers might see the police as a guardian of civil society that respects civil rights and liberties. Their confidence in the police is shaken when these

rights and liberties are violated by the police, for example by the tactics that the police used during the G20 protests, or the scandals that surrounded Sir Ian Blair. The quantitative data used in this study can only hint at such potential differences in police images. Qualitative research using in-depth interviews and ethnographic approaches are required to describe them appropriately (see for example the work of Girling, Loader and Sparks 2000, or Loader and Mulcahy 2003).

The study has a number of limitations. Media measures have been assigned to respondents based on self-reported newspaper readership. We cannot verify whether respondents actually did read the newspaper they reported to read, and even if they did, whether they read the articles that referred to policing. Furthermore, newspapers are only one source of information about the police and the study did not cover television, online media or other sources. Public trust and confidence in the police are also tied with the social meaning and cultural significance of the police that goes further and deeper than the legal mandate of catching criminals, protecting citizens and keeping law and order. The police are the 'civic guardians' of the community's 'moral architecture' (Loader and Mulcahy 2003), and people look to the police to typify and represent these moral values, and to defend and reassert them when they are perceived to come under threat. Perceptions of the area in which people live — anti-social behaviour, disorder and neglect, (lack of) social cohesion — have been found to be associated with trust and confidence in the police (Sunshine and Tyler 2003, Jackson and Sunshine 2007, Jackson et al. 2009, Jackson and Bradford 2009). We would thus expect that media images not only of the police but also of society at large might impact on public confidence in the police. The practical limitations of the study did not allow for an empirical test of this hypothesis. A further practical limitation is the comparatively short three-year period covered in this study. Public confidence has been very stable over the past five years, however, the picture looks different if we consider long-term developments. Both public confidence and media images of the police have undergone dramatic changes since World War II (Reiner 2010). Finally, the study suffers from the notorious difficulties inherent in media studies: the omnipresence of the media, the near-impossibility of isolating and disentangling media effects and following from that, the near-impossibility of attributing casual effects to media exposure. This type of study can also only pick up short-term effects and cumulative long-term effects go undetected (Livingstone 1996).

Some theoretical and practical conclusions can be drawn despite these limitations. Thus far, the confidence model has only been used to explain associations between perceptions of engagement, fairness and effectiveness and overall confidence within surveys. This is the first study that tests the confidence model with media data as well as survey data. The findings confirm that community engagement, procedural fairness and police effectiveness are distinct concepts and each contributes separately to public confidence in the police. Perhaps it is surprising that procedural fairness, which is evidently important for people's experience of direct encounters with police (Skogan 2006, Tyler and Huo 2002, Bradford, Jackson and Stanko 2009), can, if only to a small extent, also be transmitted through press reporting. Police effectiveness lends itself most readily to media reporting, yet this does not appear to translate equally readily to changes in public confidence.

The practical implications for the police are evident. If the police want to demonstrate community engagement and procedural justice to those with whom they do not come in direct contact, the police have to seek ways of directly communicating with the public. And although newspapers give intense coverage to police investigations of crime cases, this reporting does not appear to affect public con-

fidence. Reporting on police community engagement and procedural fairness has a small effect on some readers, yet the media do not cover these aspects of policing enough to influence confidence to a substantial degree in the wider population. This leaves ample space for the police to enhance public confidence by using direct means of communication — for example newsletters — to inform the public about how and in what ways they engage with the local community.

4. CASE STUDY ON LITHUANIA
The roots of 'penal populism': the role of the media and politics in Lithuania

1. Introduction

The term '**penal populism**' may be used to describe the process whereby politicians devise punitive penal policies with the objective of mobilizing votes rather than improving the quality of the criminal justice system. Typical examples of penal populism are those 'tough-on-crime' strategies that are manifested and emphasized by political candidates during election campaigns, without addressing the basis for such strategies. This definition of penal populism, however, is quite simplified and does not adequately reflect the complexity of the issue. Penal populism, indeed, represents 'a major shift in the configuration of penal power in modern society, rather than something within the purview of politicians to tinker with as they please' (Pratt, 2007; p. 8). It is a process that originated in the major social and cultural changes of the 1970s and continues to take place in modern societies.

From a sociological point of view, Shils (1956) and Canovan (1981) observed that '**populism**' does not represent the general public opinion, but rather the feelings, voices, and moods of those society segments that were neglected and left out by authorities. In this sense, populism reflects dissatisfaction and alienation of these underrepresented segments. It criticizes those sectors of society which allowed this mistreatment to occur by '... engineering this marginalization of disenfranchisement of ordinary people...' (Pratt, 2007; p. 9). In particular, it criticizes institutional bodies, sometimes self-serving the parliamentary process, and different elite groups which advice the government on criminal justice policies (e.g. academics, the judiciary, the media). These forces represent 'the established power' which claims to speak 'on behalf of the people' concerning criminal law reforms.

The **focus on the criminal justice system**, however, is a strategy that is not only used by underrepresented segments of society, but also by those political parties that are in power. Thus, demand for harsher punishment might designate either a public claim to gain political power or, as in the latter case, might be used to create an impression of legitimately holding the power. In this case, the role of the mass media is crucial. First, they may shape, consolidate and direct public attitudes. Then, they may picture those attitudes as the 'true voice' of the ordinary people, creating a vicious circle.

2. Methodology

This study aims to better understand the manifestation of penal populism in the media and its interrelation with politics. In order to do this, we adopted **Pierre Bourdieu's 'qualitative discourse approach'**, which considers mass media as a

'social field' where penal populism can be exercised and penal attitudes can be reinforced. In line with this approach, language is seen as a form of social practice and the focus is on the ways social and political dominance are reproduced in texts and talks. This approach, which inevitably involves interpretation, enabled us to examine ideologies and power relations.

The study was based on the **Lithuanian media coverage of a crime: a paedophilia scandal** related to the alleged sexual abuse of a pre-teen girl. The father of the girl, D. Kedys, accused three persons of perpetrating the crime: a judge, a businessman with ties to the political system and an anonymous person. As accessories to the crime, D. Kedys named the mother of the child and her sister, accusing them of pandering the child for sexual exploitation in return for financial gain. The reason why this particular case was chosen for the study, is that it was the only case in the history of Lithuanian media to be reported with such intensity and for such an extensive period of time (2009 – 2012). This case also clearly demonstrates the consequences of media-generated moral panic and its amplification mechanisms on society.

The **focus of the analysis was on the impact** of the media coverage of this paedophilia scandal on the criminal justice system and on the changes that were generated as a result of a media-constructed moral panic in public attitudes to justice.

The **period** of media monitoring of the paedophilia case was between 17/08/2009 and 30/09/2010, starting with the appearance of the first article on the internet relating to the scandal. The analysis of mass media contents included a review of:

- the most popular Lithuanian online media publications; and
- the television 'info-shows' of the three Lithuanian main broadcast channels.

Regarding the **Lithuanian Internet news media publications**, the overall sample included 800 online articles: 574 articles entirely dedicated to the paedophilia scandal; 73 articles where the paedophilia scandal was peripheral to the main topic of the publication; and 153 articles about other paedophilia cases. The final sample that was used for the analysis, instead, included only the articles that received the most attention from readers during the research period. The popularity of the articles was determined by the number of comments left on individual articles in each of the 13 months of the research cycle with the top 13 articles, one per month, selected for review. The articles were analysed applying the qualitative discourse approach, concentrating on the interrelation of different social fields in the framing of the issue. It was necessary to define the social actors. Identification of their position in the field, the rhetoric used by them, and the role they were given in the article (e.g. whether or not they were mentioned in the title) were particularly required. Moreover, it was necessary to evaluate in which public framework they were competing ('faulty system', 'blocked opportunities', 'social breakdown', 'racist system', and 'violent media') (Surette, 2011; p. 38-40).[322]

As to the **Lithuanian television 'info-shows'**, despite restrictions on the access to television programme records, the analysis included 19 television shows that covered this particular crime story during the period 01/10/2009– 31/12/2010. The analysis was used to illustrate that media are an arena where power can be concentrated and exercised. In this case, as it will be further explained, the analysis reflected the monopolization of the crime problem by certain interest groups — the 'claim makers'. The specific nature of these television programmes as 'info-shows' had an important impact on determining the participating audience. Television programme records were analysed according to the following categories: name, date, duration, number of comments, duration of comments, number and duration of comments according to their type (public/professional/political), and role/profession of the commentator.

It is important to underline that the analysis of the media discourse was enriched

322. The 'faulty system' argues that crime emerges from inefficient and lenient criminal justice system, which urgently needs to 'get tough' on crime. The 'blocked opportunities' frame argues that the roots of the crime-and-justice problems lie in poverty and inequality issues. Thus, the advocated means of solving the problem usually are connected to fighting unemployment, poverty, community development, etc. The 'social breakdown' frame sees the causes of crime in family and community breakdown. The solution is seen in strengthening family values, communities, and citizen involvement. 'Racist system' argues that the problem lies in the discriminatory operation of the criminal justice system, which needs to become more sensitive to the racial justice issues, and calls for empowerment of discriminated groups. The 'violent media' frame argues that violent crime in particular stems from the violence portrayed in the mass media, and calls for more governmental control of produced violent media content.

by Bourdieu's approach, particularly by his notion of the media as a 'social field' where penal populism can be exercised and penal attitudes can be reinforced. This approach allowed us to assess which social actors were 'empowered' to comment on the paedophilia scandal, and helped us to identify the ideological motives of the selection of programme participants.

3. 'Penal populism': the interrelation of mass media and politics

3.1. Information on crime and the 'market logic-oriented' news production practice

According to Bourdieu, information on crime is ever more often made to conform to common **economic indicators**, the **most important of which is profit**. Mass media is gaining an ever increasing power in society precisely at the time that it is falling under the ever growing influence and control of politics (i.e. politicians) and economics. But, in this context, the more harmful effect seems to come from the invisible and anonymous economic pressure of market forces, rather than from the open political censorship, which journalists can consciously resist (Bourdieu, 2002; p. 12). Bourdieu emphasizes that the 'symbolic power', i.e. the power to define, classify, create and impose specific social concepts and desirable models of society, was previously isolated from political and economic power but is now increasingly concentrated in the hands of the few. Large corporations, which simultaneously own mass media and the means for the dissemination of cultural goods, adopt similar market logic via television channels, publishing groups, internet companies, etc. Thus, cultural goods, including information about crime and criminal justice, are treated like any other commodity and must conform to common economic indicators, the most important of which is profit.

The study on the case of the paedophilia scandal in Lithuania showed that mass media used a 'market logic-oriented' practice in the presentation of news, as in Bourdieu's perspective. First of all, mass media created a brand, the 'logo' of which was the portrayal of D. Kedys as a 'hero'. Then, they positioned this brand in the public consciousness. This was accomplished not only through an intense mass media escalation of the paedophilia story, but also through the penetration of the story into other forms of discourse, such as the following:

- virtual communities of support to D. Kedys were established in the social media;
- a TV series dedicated to the story of D. Kedys was created by commercial television channels;
- online news portals launched separate columns on 'The story of D. Kedys' and 'The case of D. Kedys';
- D. Kedys' character appeared in children's comics.

As a consequence of the penetration of the story into several forms of discourse, D. Kedys' 'style fans' emerged. Quite often, mass media portrayed D. Kedys in a purple shirt, which turned this colour into a symbol for paedophilia fighters. Other consequences were that the 'D. Kedys brand' was used in food menus and slogans. Finally, D. Kedys' proponents started initiatives to create a political party.

Generally, any practice of producing 'market logic-oriented' news involves **direct 'market competition'**. The commercial success and continuity of a television programme indeed, as any other commercial commodity, depends on its success among customers, i.e. on the ratings it receives. In a 'market logic-oriented' perspective, any effort to build truly rational and enlightened public opinion is only a secondary consideration. The **main goal is packaging a saleable story**. This, of course, is contrary

to the attitude of some media demagogues (Bourdieu, 2002; p. 88). Taking into account both the peculiarities of the journalistic field, where the aim is to produce a short-term validity product (within the context of this work — crime news), and the struggle for the attention of consumers, the competition for the most sensationalist news is high among media agencies. This competition is the strongest, the closer the television channel (or other means of mass communication) is to a commercial pole, where consumer attention more directly links to the profit side of the media/marketing revenue model and thus increases the economic viability of the media enterprise.

The Lithuanian media coverage of the paedophilia scandal is an example in this regard. Strong market competition was identified between the two leading Lithuanian commercial television stations, each offering their assortment of paedophilia scandal stories.

Bourdieu emphasizes the **danger of market competition on cultural production**. He argues that instead of promoting the diversity of supply (in this case a diverse array of news stories), market competition leads to a form of **standardization**, which is particularly noticeable on television and in the press. Media groups, seeking to increase profits and stay competitive, produce entertainment shows designed to grasp the largest audience share.

Standardization in news coverage was observed in the analysis of TV programmes that were broadcast during the paedophilia scandal in Lithuania. First of all, the three principal public TV channels, LTV, TV3 and LNK broadcast similar, competing journalistic programmes: 'The journalist's Investigation', 'Confrontation' and 'On both sides of the Wall'. Secondly, more direct competition was observed between two commercial television channels: they both competed intensively to shed light on the paedophilia story, each offering diametrically different opinions in order to attract the audience.

According to Bourdieu, crime news reproduces and legitimises the ideology of political and economic interest groups that possess the '**symbolic power**'. Thus, in spite of the potential positive impact of public discussions on criminal and social problems on the media, the result is often detrimental, given the influences under which journalists consciously, and perhaps unconsciously, operate (Bourdieu, 2002; p. 16). From this starting point, the system continues to turn on itself. Influenced media reporting strongly influence politicians, law enforcement representatives, public figures and the interface between them and the public, which itself responds to media controlled content (Bourdieu, 2002; 17). Since market pressure is rarely directly correlated to media content, instead of becoming a support for informed democracy, mass media becomes a mechanism of democratic subversion.

Moreover, television producers and directors, by prioritizing the '**sensational**', define what kind of information is to be underlined and how to interpret it. As the market-engendered spiral continues, competing television media groups increasingly rely on 'tabloid' media tactics, devoted principally to chronicle events and sports news (Bourdieu, 2002; 69). The analysis of TV programmes clearly shows how participant content is controlled via time constraints, programme format and script, message oversight (to ensure it is not sophisticated beyond the presumed reach of the general public), etc. This practice simultaneously narrows the scope of the discussion and those capable of presenting it. Within this format, criminal news, disasters and similar kinds of information do not require a special competence, and certainly not a political one, to deliver. Therefore, they can easily reach the general public.

Bourdieu emphasizes that this form of **chronicling of events creates a political emptiness** and downgrades political life to the level of jokes or gossip. Without a political barometer to interpret the events that are presented by the media, public attention can easily be manoeuvred to focus on matters that are in the end of lim-

ited political consequences, despite the meaning that is given to them. Some matters, indeed, tend to be dramatized by the media so that the public can 'learn' from them or identify them as 'social problems' (Bourdieu, 2002; p. 70). For this purpose, often '**media philosophers**' or other persons who are known in the public sphere, are paraded to **give a special meaning to a 'coincidental crime occurrence**', that is artificially embedded into the media agenda **to give it the status of a 'social problem'**. For example, journalists invite academics, public figures and politicians to their programmes to create an image of intellectualism and professionalism. This, in turn, legitimises the overall programme as being objective, unbiased and focused on getting to the truth on a specific matter. This matter, though, is predetermined by the media to be of particular importance in light of its capacity to attract public attention and thus, revenue. In short, this format commoditises the news but does so in a way that gives an impression of legitimacy.

In the case of the Lithuania paedophilia story, Internet media articles and TV programmes took exactly this approach and transformed an 'accidental event' into a 'social problem'. They accomplished this by involving claim makers and 'media philosophers', who commented on the particular case in a manner that legitimised it as an actual social problem.

According to Bourdieu, mass media coverage of a certain type of events might induce various **emotion-driven popular responses and actions**, which may be exceptionally sentimental and compassionate towards the victims and aggressive to the point of symbolic lynching towards those considered to be responsible. Certain **types of events may be reconstructed in a way that gratifies the most primitive human impulses and desires** (Bourdieu, 2002; p. 70). As an example, stories of child sexual exploitation and abuse can be reconstructed in a way that stimulates national rage. Thus, contemporary means of mass communication that stir and exploit the lowest lusts (violence, carnal instincts) can augment the outbreaks of hatred towards certain social groups (e.g. paedophiles, homosexuals, etc.) and lead to popular requests for increased punishment and control over those social groups.

The paedophilia scandal that was analysed in this study is an example in this regard. It is particularly common that paedophilia stories describe the cruel treatment of children by a stigmatized perpetrator. Arguably, aggressive societal responses to such cases partly depend on the form and style in which journalists present the paedophilia scandal. The responsibility of the journalists, however, relates more precisely to the way in which they choose to interpret these events and its implications. Their culpability in this sense is systemic rather than individual, and it relates to their work within the socio-economic construct of the media industry and its interface with society and the state. That is precisely why, in order to understand the construction of punitive attitudes in public discourse, it is critical to be well versed in the logic of journalism. If one understands the structural mechanisms that promote journalistic cynicism and lead to the pursuit of sensationalism, one can promote conscious action to control and neutralize these negative effects. Simultaneously, by disclosing and spreading awareness about these practices and their effect, their manipulative impact on society at large could be mitigated (Bourdieu, 2002; p. 74).

3.2. The role of the media in shaping public attitudes to the criminal justice system

The coverage of the paedophilia scandal in the Lithuanian media shows the impact that the media can have on the criminal justice system and the trust of citizens. In particular, it shows how journalists may overstep their authority and attempt to enter directly into the 'legal universe', by advocating the delegation of legal, and particularly judicial, powers away from state actors. In the case that was analysed, at different moments, journalist, hosts and correspondents assumed the functions of a judge, labelling law enforcement institutions as 'indifferent', 'passive', 'negligent', 'incompetent', and chiding them to 'take the responsibility' and 'be reformed'.

This form of media intervention can be very dangerous. Obviously, the media need the public and the public needs the media. On the one hand, the media need the public because it is their end-consumer: the capacity of the media to influence the public through cultural production supports the media market economy and the viability of media as a private-sector institution, financed through advertising and sales. On the other side, the public needs the media for information. However, what is to be noted, is that when information is distilled in a way that **focuses first and foremost on sensationalism**, to drive greater market share and, therefore, greater profits for advertisers and investors, the supposed **mission of the media**, **which is to inform, is lost because it is subjugated to pure business logics**.

During the research period, there were a few comments made attacking journalistic meddling into the paedophilia case investigation process, accusing the media of provoking society's reaction in the public discourse. The media response was predictably based on the argument that it is a **matter of professional and civil conscience to shed light on events of this nature**, to raise awareness, disclose 'villains' and contribute to the restoration of damaged social order. While there may have been some truth in the intent of such statements, as this study recognizes, it appears that the media **no longer possess the objectivity** or the professional capacity to intervene effectively in these spheres, in a manner that is beneficial to society.

As Bourdieu points out, in today's cynical world focus is often on '**conscience**'. Of course, however, any appeal to conscience is 'effective' only when it is based on the structures and mechanisms that lead people to willingly comply with the moral norms. In this case, and in contradistinction, the dependence of the journalistic field on **market pressure** predetermines certain criteria of professional activity and pre-frames the standards of 'professional conscience'. In order for the public conscience to be aware of media manipulations an educated audience is required. However, rates of popular confidence in mass media and indicators showing mass media (especially television) as the main source of information about criminal problems indicate that **public resistance to the economic game rules of mass media is very low** at the moment. In addition, journalists are often able to keep a rational distance, which is necessary for reasoning to occur, due to the internal ideological factors of information production. This of course, amplifies the problem.

On the one hand, in the paedophilia scandal the public witnessed the overriding cynicism of mass media as an industry. By escalating the paedophilia story, via

- intensively educating the public about the core 'social vices',
- loudly disclosing 'villains', and
- passing strict judgements on certain 'offenders' and then changing sides,
- mass media falsely presented itself as a protector of humanist values, whilst carrying out market-based mass **manipulation**. Such media manoeuvring is possible in part because the intense quantity and flow of information in the knowledge society exacerbates a chronic social illness — 'memory amnesia'.

On the other hand, this situation showed that by channelling and mobilizing information, the mass media contribute to the consolidation of '**perverse direct democracy**', principally by failing to keep an adequate distance between what is defined as 'news of the day' and public pressure, which is not necessarily democratic in nature (Bourdieu, 2002; p. 84). The information provided in the public discourse about the paedophilia scandal — 'bad news' — could be then compared to nails, which were hammered daily

into the people's conscious and subconscious; the more of those nails were delivered the angrier the people inevitably became. This led to a decline in public tolerance and humanity. And, at the same time, it brought a simultaneous increase in public dissatisfaction with public authorities and an intensification of homophobic sentiment (fear of otherness). These events were also covered by various mass media sources, e.g. 'Politicians choose public figure masks' (www.delfi.com, 15/09/2010), 'Public incitement to beat gays received the attention of prosecutors' (www.delfi.lt, 17/03/2010), 'In Vilnius — drastic incitement to protest against the gay parade' (www.delfi.lt, 05/05/2010).

It is important to note that, under normal conditions, *'keeping the necessary distance'* between what media report on the news and public pressure should be guaranteed by the relatively independent political logic. However, the paedophilia scandal that was analysed revealed the opposite trend. Here, representatives of the political world became participants in the narrative created by the mass media, thus legitimising both their own role and the role of the media in the legal discourse. So, in this context, the limited autonomy of the political and legal field was revealed. In short, such interaction of journalists with politicians and law enforcement representatives weakened the boundaries between these groups. Arguably, it also blurred the boundaries between the role of politicians and law enforcement officers. The online media and television analysis revealed which social agents were given the right to comment on the paedophilia scandal and simultaneously which social agents had the right to provide their definitions of the situation. 'Revenge logic' discourse in the paedophilia scandal mirrors current political discourse in Lithuania. The logic of politics was not only unable to maintain the necessary distance between facts and opinion, but it also led into the deviance amplification spiral thus legitimising society's 'rage' (Cohen, 2002).

3.3. The participation of political representatives in the media discourse

What emerged from the analysis of the TV programmes, is that the paedophilia scandal was mostly politicized on commercial channel TV3's show 'Confrontation'. In four out of the nine programmes that were dedicated to the scandal (22/09/2010, 13/10/2010, 27/10/2010, 24/11/2010) the participants were politicians (i.e. members of the *Seimas*). And, in one of these shows (27/10/2010), three out of the ten participants were representatives of the political field (i.e. two members of the Seimas and a Presidential spokesman). It should be noted, however, that the opinions of two of the actors who participated in the TV3 programme 'Confrontation', which opted for the so called 'pro-Kedys' position, were also quite actively highlighted on the online news portal Delfi.lt.

Conversely, on the LNK channel show 'On both sides of the wall', only one out of the nine shows featured a political commentary by a member of the Seimas (14/10/2009). Finally, in LTV's, the national broadcaster, programme 'Journalist's investigation', the only show dedicated to the paedophilia scandal, there were no participating politicians.

During the overall research period, the following political representatives were most mentioned in the headlines of the news portal: President Dalia Grybauskaite (15 publications and 2 publications in the headlines indicating President's advisor), the Minister of Justice Remigijus Šimašius (7 publications), Chairman of the Seimas Irena Degutienė (6 publications) and Chairman of the Committee on Legal Affairs Stasys Šedbaras (5 publications).

3.4. The rhetorical discourse used by political representatives and its impact on their 'popularity'

As to the rhetoric used by political representatives during their speeches on the paedophilia scandal, the study showed that most of them used the so-called '**mass rhetoric**', which has become a modern presidential ruling tool. On the one hand, actively speaking of the head of state in public discourse often indicates tendencies towards the 'presidentation' of the political culture, which, as claimed, is reflected in the Lithuanian public discourse on crime and criminal justice. On the other hand, political culture is also often dominated by 'parlamentarisation' trends, such as the ones reflected in the following headline:

'A. Kubilius [prime-minister of Lithuania]: the Government will not interfere in D. Kedys daughter's story '(www.delfi.lt, 20/05/2010).

Typically, during periods of moral panic, higher ratings are received by politicians who speak publicly on media agenda issues using the so-called populist 'tough-hand-rhetoric', such as in the words of the **President and Chairman of the Lithuanian Seimas**:

- 'The president is not satisfied with the investigation of D. Kedys daughter's case' (www.delfi.lt, 12/10/2009), D. Grybauskaite [president of Lithuania];
- 'I am taking a greater responsibility than the Constitution assumes' (www.delfi.lt, 20/10/2009), D. Grybauskaite;
- 'I am expecting stricter decisions concerning the prosecutors' (26/10/2009), 'I. Degutienė [chairman of the Lithuanian Seimas] questions court decision on D. Kedys case, and the bailiff's conduct' (www.delfi.lt, 19/05/2010), etc.

Interestingly enough, during the period of moral panic, public distrust and anger, the trust ratings of the President and Chairman of the Lithuanian Seimas were quite high.

The **Lithuanian Prime Minister** chose an unpopular approach in dealing with the paedophilia scandal. He publicly commented on the issue only four times, focusing on things such as:

- how to protect the 'faulty system';
- the 'prosecution service has problems, however everything shouldn't be assessed by one case'; 'non-compliance with court decision is a crime';
- 'Government will not intervene in the D. Kedys daughter's story'.

Of course, politicians' ratings are influenced by many factors, but, it is clear that such comments by the Prime Minister during times of public distrust in the government and especially law enforcement institutions did not promote the populist mobilization of the electorate. Related or not, during the research period, the Prime Minister remained one of the most unpopular politicians in the country.

The speech of the **Head of State**, who was one of the actors most actively commenting on the paedophilia scandal in the political field, could be attributed to the so-called '**military rhetoric**' (Kozeniauskiene, 2001). This type of rhetoric is characterized by brevity of speech, being laconic, using 'active' verbs and quite imperative first-person forms. This includes comments such as:

- 'The President House promises',
- 'The President is unhappy',
- 'lately deciding to fire not one judge',
- 'will assume increased responsibility',
- 'called on the carpet',
- 'expect tougher decisions',
- 'see shifts',
- 'the decision to leave on the post',
- 'why it was searched wherever?',
- 'the most important thing — the child's interests',
- 'will offer candidacy',
- 'the decisions must be made immediately',

- 'is looking for a General Prosecutor',
- 'it is necessary to maintain peace and act in a civilized way', 'Kaunas events – the painful lesson for the State' etc.

This parlance, consistently accompanied the Head of State since her inauguration: 'I will be an active president' and 'will fight', also shifts to the public crime and criminal justice discourse. Such rhetoric aims to strengthen authority and power. The language is both impressive and manipulative: it only provides the public with certain contour, allowing the audience to fill in the empty space with their expectations.

Within this context, the **paedophilia scandal was used as an instrument** in the hands of the representatives of the political field **to reinforce their symbolic capital**. Having an opinion on the paedophilia case became an integral part of the political agenda, and having a harsh opinion became essential for increasing one's ratings.

The language of economics is penetrating into the political debate, and this in turn impacts on the public crime discourse. Thus, in this case, we observed not only a direct influence of the mass media on shaping political and public agendas but also on excluding other major topics from the public discourse (e.g. austerity measures, budget cuts, rising electricity costs, reduction of safeguards in Labour Law, etc.). When the attention of the public opinion is directed to only 'a few' selected events those who are in a position to comment on those events may direct viewers in certain predetermined ideological directions.

3.5. The participation of political actors in the investigative journalism programmes

As to the participation of political actors in the different investigative journalism programmes, we assumed that the more active participation of the representatives of the political field in TV3 channel was due to the '**pro-Kedys**' [in favour of the girl's father] position that was chosen by the programme. This approach was generally profitable in terms of both financial and political capital. The LNK channel's programme chose a different '**anti-Kedys**' [in favour of the girl's mother] approach. And in case a politician decided to have a role in this script, that could have had a negative impact on their popularity. However, the relatively non-active political participation in these shows in general (as opposed to news portals), was probably mostly determined by the programme's genre itself, which is best described as infotainment. Logically, the genre of the TV show had a significant influence in determining the cast.

3.6. The nature of the comments in the investigative journalism programmes

Comments of '**people from the street**' were often included in commercial channel programmes. The genre of such programmes, indeed, prioritizes personal opinions and emotional punitive reactions over objectivity, factuality and professionalism. **Professional comments**, generally by criminal justice officials, were instead included in almost every programme, which aimed to give an illusion of objectivity to the analysed story. Sociologically speaking, it is important to see that within the context of such programmes, individuals are more akin to agents occupying a certain position, for instance, in a political, legal or academic field, whereas the journalist represents an actor from the journalistic field. Thus, the relationship of the journalist with the guests of the programme reflects the structure of interaction between the journalistic field and the field represented by the other participants. For example, the objectivity that is assigned to academics commenting on certain events in the media, such as the paedophilia scandal, is related to the objective status of the academic field in general, rather than to the characteristics of the individual. However, the very agreement of representatives from the authoritative fields to take part in such programmes contributes to the legitimisation of television's constructed discourse, and hence to the shaping of the world view.

3.7. The need for constant and engaging entertainment

Bourdieu argues that, in the modern world, the need for constant and engaging entertainment drives mass media to use '**animators**', rather than serious commentators and reporters, and '**information that provides entertainment**', i.e. meaningless talk show formats, rather than serious analytical information and discussion (Bourdieu 2002; p. 152-3). To defend this simplified, demagogic form of presenting criminal stories (as was the case in the investigation of the paedophilia case trials in the programmes analysed), journalists often claim they meet the expectations of their audiences. In reality, however, it is them who also assign to the audience their own preferences and attitudes in covering crime problems, upon market logic. In short, **journalists tend to be more interested in the game**, its players, the tactics they use, and the effects caused by certain rhetoric in the relevant field, **rather than the actual informative content**, and the essence of what the characters represent (Bourdieu, 2002; p. 154).

In the case of the paedophilia scandal, we noted that commercial television applied this logic for crime information/news production. They highlighted confrontation between individuals rather than the differences in their arguments. The title of one Lithuanian programme, 'Confrontation', both symbolically and metaphorically represents this point.

3.8. The fragmented and superficial portrayal of crime reality

Bourdieu notes that the media's natural commercial orientation towards entertainment involuntary directs the viewer's attention towards a certain spectacle or scandal, each time a seemingly boring political issue emerges. As in the case of the paedophilia scandal, news ends up being reduced to the **chronicling of 'interesting events' that catch the viewer's attention**. Criminal problems are produced in a borderline form, among diverse and chaotically presented events occurring one after another only due to chronological coincidence: the scandalous criminal procedure, a civil war in Africa, the banking crisis, a basketball team defeat, an aviation disaster, bad weather forecast, etc. Due to the already mentioned particularities of media information production, the presentation of events is usually restricted to the '**here and now' context**, thus, separating criminal problems from their causes and long-term consequences. Such fragmentation and superficial portrayal of crime reality is supported by the 'thinking this day' logic and constant competition over defining and selling what is important and new (sensational), which in turn condemns journalists to the constant daily search for news and the construction of incoherent, scattered impressions and images of crime reality (Bourdieu, 2002; p. 157). As a result, **criminal problems are separated from the system of relations that determines them** and are conveyed to the public in a way that overlooks the general social context.

The approach to present a fragmented and superficial portrayal of crime reality was observed in the coverage of the paedophilia scandal. As is well known, the structure of the criminal justice system depends on the overall criminal justice policy, which is necessarily linked to political strategies, the general state policy, culture, as well as other social interests. During the coverage of the paedophilia story focus was generally given to the events that were happening 'here and now' and not to this critical broader systemic context.

So, the economic logic behind the journalistic field influences the production routine of crime news. Crime news is presented as a series of absurd, unrelated events, which are impossible to understand and prevent. An **incomprehensible world, full of violence**, aggression, crime and threats is depicted to media consumers. In this context, the presentation of false information about crime reality, including constantly growing occurrences of violence and crime and an 'epidemic' of sexual crimes, **feeds a feeling of anxiety into society** and the notion that the existing security measures are insufficient. As a consequence, public dissatisfaction surfaces, leading to demands to harden existing security measures and to establish stiffer punishments for the violation of public interest. In general, representatives of the political field, who seek to mobilize potential voters, support such demands.

3.9. The 'public fatalistic disinvolvement': crime as a matter for professionals

In the case of criminal problems such as paedophilia, this vision of reality is further enhanced by a **sense that crime is an object of a legal and political game — a matter for professionals**. Bourdieu notes that such a portrayal of reality promotes the so-called 'public fatalistic disinvolvement', particularly among the least politicized viewers, which ensures the preservation of the existing order and prevents the occurrence of any significant changes in the social structure (Bourdieu, 2002; p. 159).

As applied in the case at hand, the moral panic resulting from the paedophilia scandal did not cause changes in the social structure itself, but only in the personnel functioning within it. Mass media maintained and legitimised the existing social order, by showing that in cases of law infringement and conflict between a perpetrator and a victim, the matter is legitimately passed to the hands of the state, which exercises monopoly authority over such matters.

Thus, community conflicts are generally monopolized and regulated by professionals — **judges, lawyers, police officers, doctors, criminologists**, **the organization of society's social structure itself, and also the mass media**. N. Christie (1977) claims that this has been the result of the state's aim to reduce conflicts and protect victims. However, Christie also notes that such trend contributes to the depersonalization of individuals. Professionals working in the system of crime control contribute to reducing the victims of crime to non-existent entities, and the accused persons to a thing (Christie, 1977). The organization of the basic social structure, i.e. the fact that members of society are segregated by gender, age, ethnic origin, etc., exacerbates the depersonalization of individuals and leads to a lack of mutual understanding. On this background, the mass media become one of the social institutions affirming and preserving this *status quo*.

As it was the case in the coverage of the paedophilia scandal by Lithuanian media, crime reality and criminal knowledge in the public discourse ends up being established as the discourse of professionals and then adopted by the legal, political, scientific, and also journalistic fields.

In this context, the **mass media** play an important role in the construction of attitudes towards the criminal justice system, as one of the most important cultural mediators. They reproduce social powers and their distribution in society's structure.

At the same time, though, it is the **political forces** that play an important role in the construction of attitudes towards the criminal justice system. A distorted presentation of crime and criminal justice is inherent to politically organized societies, where, according to R. Quinney (2004), the state is the core of criminal knowledge. In such society, the social construction of crime reality is a political act, which implies social and mind control, legitimising the 'regimes of truth' and removing the unwanted discourses. All these political processes find their place and are reflected in the structure of public discourse.

The analysis of the representatives of the social fields that were given the right to define, comment upon and suggest solutions to the problem of crime in the case at hand, confirmed that **the public discourse of crime and criminal justice is , primarily, a professional discourse** (criminal justice officials, policy makers, less often academics). In turn, the ordinary members of society more often play the role of passive observers. In other words, society's social hierarchy in media discourse is reproduced through the so-called 'rhetoric credibility hierarchy' (i.e. the 'credible experts' who are provided with the ground to speak in media discourse) and, thereby, **confirms the legitimacy of the social structure** (van Dijk, 2009).

3.10. Crime as an arena for struggle among interest groups

It should be emphasized, that crime knowledge in the public discourse is also mediated by the so-called '**claim makers**'. They are **those who represent certain segments of society** and compete with each other for the recognition of their proposed constructions of social reality. To land their constructions and to establish their power, they not only sometimes employ populistic arguments, which are often based on stereotypes, but also invoke certain '**conceptual frames**' which are based on factual and interpretative claims and advocate corresponding ways to define and solve problems (Surette, 2011; p. 38-40). In this case, the social construct which wins, gives power to the group representing it.

The most popular frames used by claim makers in the paedophilia scandal narrative were the 'faulty criminal justice system' and 'social breakdown' frames. The strategies that such frames recommended to address the problems were the adoption of harsher social control and stronger community engagement, thus, fostering more punitive attitudes, intolerance towards 'non-traditional' forms of the family, and conservative attitudes towards problem solving. In the case of the 'social breakdown' frame, its conservative version which denoted liberal attitudes towards moral issues as the cause of social breakdown, (i.e. cohabitation, non-marital childbearing, etc.), corresponded not only to the simultaneously occurring polemic on the family concept in the public discourse, but also to a broader political discourse, i.e. the prevailing conservative ideology.

In other words, the **public discourse on crime and criminal justice is also an arena for struggle and competition for symbolic resources among interest groups**. And in this area, one could also observe the power of the media while filtering certain constructions, usually favouring those positions that are dramatic, sponsored by powerful groups, and related to pre-established cultural themes (Surette, 2011).

3.11. The amplification of moral panic

Several players can contribute to the amplification of moral panic and deviance in society. First of all, the need to capture audience attention with sensational news creates an environment for the **media** to become amplifiers of moral panic. Applying routine techniques of knowledge production, the media can turn separate events into a safe and convenient construct of bigger social problems. It is often the case that media designate 'outside' groups as responsible for such problems in an attempt to give an explanation on why law enforcement institutions do not succeed in completely eradicating them. This increases moral panic.

Secondly, **political actors** can directly participate in deviance amplification. Indeed, in many cases behind the excessive escalation of a certain issue in the mass media lies a protection of a certain political approach that offers the corresponding

solution strategies. Actors in the political field resonate criminal issues in the public discourse to strengthen their political capital, to mobilize electoral support or to draw public attention away from the system's real problems. Through this, they directly participate in deviance amplification. Moral panic, and the narratives that actors in the political field use to give meaning to it, have the potential to create criminal myths. This preserves the *status quo* by designating 'others' as scapegoats for those problems, whose roots lie in the system itself or in the hands of empowered actors.

During moral panic, **criminal justice institutions**, experiencing constant pressure from politicians, the public and the media, can themselves get involved in deviance amplification. The media content analysis that was conducted on the paedophilia scandal showed that governmental institutions, such as the criminal justice system or its separate components can be scapegoated. In such a context, it is not unusual that criminal prosecution practices towards certain social groups become harsher, and there is an internal institutional reallocation of human resources towards investigating 'new' social evil. Quite often, law enforcement institutions start to focus more on quantitative rather than qualitative outcomes, which in turn impacts on the effective functioning of these institutions and their ability to identify relevant public security problems.

3.12. The consequences of moral panic

All of these factors **reduce public trust in the criminal justice system**, undermine engrained democratic principles in criminal justice policy, stimulate the growth of fear of crime, and lead to the intensification of punitive attitudes in society, as well as to public alienation and demoralization. For instance, the analysis of secondary data during the research period revealed that, among the main criminal justice institutions (police, prosecutor office, courts), the **highest public distrust rate was towards the prosecutor's office and the courts** (*Vilmorus, 2009-2010).* Not surprisingly, these were the institutions that also mostly received negative attention in the public discourse during the paedophilia scandal. In 2010 (in 2009 the trust/distrust in the Prosecutor was not measured), 46.4% of Lithuanian citizens distrusted the prosecutor's office, and only 13.7% expressed trust. In 2010 the public courts were distrusted by 46.9% of the citizens, an increase by 6.8% percent against 2009. However, trust in public courts stayed near-constant in 2010, at 13.7%.

As to the **impact of moral panic on the functioning of criminal justice institutions**, the crime statistics that were analysed during the research period showed that the number of **victims of children sexual abuse** (corresponding to ten articles in the Lithuanian criminal code) in 2008-2010 **was increasing**. In 2008-2009 it increased **by 4.8%** (176 victims), while in 2012 by another 12.5% (198 victims). The biggest increase was noticed among molested minors. In 2009-2010 the number grew by 44.7% — from 38 to 55 victims. In 2010, 223 persons accused of crimes in this group — the highest number in the last seven years and 2.2 times higher than in 2004. There were also 413 investigated criminal cases of child abuse versus only 241 cases in 2009, an increase by 71.4%.

Court statistics also show that in 2009-2010 there was an **increase in court proceedings related to minors molestation by 60%** (from 20 to 32 cases). Simultaneously, during this period there was a 64.3% increase in pending or incomplete cases — from 14 to 23 cases. At the same time the number of completed criminal proceedings on minors molestation in 2009-2010 doubled — from 12 to 24 cases. The **duration of court proceedings on cases of minors molestation** also **increased** in 2009-2010. The number of cases where court hearings took up to 6 months almost doubled, going from 8 to 15 cases. The same increase occurred in the number of cases with a duration

of 6-12 months, they went up from 4 to 7 cases. Interestingly enough, in 2008 and 2009 there were no cases that lasted more than 12 months, whereas in 2010 there were 2 such cases. These data indicate a significant increase in the workload of the criminal justice system and perhaps, certain signs of decrease in their effectiveness. Thus, while the lifetime of moral panic in public discourse is quite short, its effects on society are generally felt for quite a long time.

4. Final remarks

In contemporary society, mass media are the space where social, cultural and moral values of society are reproduced. By transmitting to the public symbolic contents, the media 'mediate' the normative constructs of the world: they can either legitimise the *status quo* or reflect the accepted changes taking place in society and the power distribution field.

As the main source of information about crime and criminal justice, mass media significantly influence public knowledge about the reality of crime. Contents that are conveyed to the public are influenced by both the normative contours of the society and the commercial media industry, which operates under the logic of the market economy, i.e. profit.

What is to be noted, is that the construction and maintenance of a distorted picture of crime reality can perform specific political functions. The social construction of crime is, indeed, inherently a political act, characterized by social and cognitive control, which can legitimize the 'truth regimes' and silence 'unwanted' discourse.

This study confirmed that crime reality and crime knowledge in the public discourse are legitimized as a 'professional discourse', i.e. one that first belongs to lawyers, judges, criminal justice officials, etc. They are subsequently captured and contorted by other actors in the legal, political and journalistic fields.

Political actors may make use of 'sensational', 'popular' criminal problems to strengthen their political capital and maintain electorate support through populist rhetoric. Therefore, behind the excessive escalation of a social problem in the media, one often finds an intention to protect or justify a certain policy and its corresponding set of solutions. In this context, 'crime narratives' and 'crime frames' are used to legitimise certain political strategies. Moral panic outbreaks are perhaps the most indicative of this phenomenon, given that power elite can use moral panic to distract public attention away from more systematic societal challenges.

In conclusion, moral panic, coupled with the narratives which are used to give meaning to it, preserve the *status quo* and those who are in power. It does so by placing the source of a particular problem on generally 'unpopular' social elements. They become 'scapegoats' for problems which are actually more systemic in nature, but which those in power are unwilling — or unable — to address.

OFFICIAL DATA

Ministry of Justice (2012) 'Statistical Bulletin on the public disorder of 6th to 9th August 2011 – June 2012 update', Ministry of Justice Statistical Bulletin, available at http://www.justice.gov.uk/downloads/statistics/criminal-justice-stats/public-disorder-june-2012/august-public-disorder-stats-bulletin-280612.pdf

OFFICIAL REPORTS

Home Affairs Select Committee report:
http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/news/plsd-report-publication/

Home Office response to Home Affairs Select Committee:
http://www.official-documents.gov.uk/document/cm82/8292/8292.pdf

Her Majesty's Inspectorate of Constabularies report:
http://www.hmic.gov.uk/media/a-review-of-the-august-2011-disorders-20111220.pdf

Riots communities and victims panel:
http://riotspanel.independent.gov.uk/wp-content/uploads/2012/03/Riots-Panel-Final-Report1.pdf

Work Package 4
State of the art:
Public perceptions

4.3

Report on an empirical assessment of fear of crime & punitive sentiment across Europe

by: Mai Sato, Mike Hough

EXECUTIVE SUMMARY

The research project FIDUCIA (New European Crimes and Trust-based Policy) is funded primarily by the European Commission under the 7th Framework programme for Research. FIDUCIA will shed light on a number of distinctively 'new European' criminal behaviours that have emerged in the last decade as a consequence of technology developments and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation, and proposes a 'trust-based' policy model in relation to emerging forms of criminality.

Work package 4 reviews what is currently known about fear of crime, trust in justice and punitive attitudes of citizens across Europe. The theoretical assumption is that current public opinion about crime across Europe will shift in the wake of new forms of crime and new inter-ethnic tensions. Nurtured in part by tabloid media and radicalising political discourse, 'popular punitive' sentiments are characterised, among other things, by an emphasis on unexpected and growing crime, blaming certain social groups, distrust in the police and justice, and the endorsement of harsh, punitive measures.

D4.3 reports on an empirical assessment of punitive sentiment across Europe using the European Social Survey Data. This analysis offers new and important insights into the phenomenon of 'punitivity' across Europe. We have examined two pairs of measures of punitivity: subjective measures of public opinion, and actual-penal-practice punitivity. We have labelled our two measures of subjective punitivity 'expressive' and 'considered'. Expressive punitivity reflects a desire for tougher penalties and considered punitivity reflects preferences for heavy sentences in a sentencing exercise. We have presented two measures of country-level punitivity in actual-penal-practice: numbers of prisoners per population of 100 000, and number of prisoners per 1 000 recorded crimes.

Key findings are:

1. As to 'expressive' subjective punitivity, there is a clear desire across most countries for a toughening up of sentencing practice. Out of 27 countries included in the analysis, 25 countries most frequently 'agreed' that sentences should be harsher. However, since previous studies have shown that generally respondents have little idea about the actual sentencing practice, their preferences should be considered as a general expression of perceived severity of the courts, which may bear little resemblance to actual practice or indeed preferred sentence in a specific case.
2. As to 'considered' subjective punitivity, the same uniformity across countries did not emerge. It is true that prison sentence was the most popular choice of sentence (62%) for the whole dataset in the sentencing exercise. However, there was wide country variation. What is to be noted is that the enthusiasm for prison sentences may not simply be a reflection of the individuals' punitivity level, but may be a sign of lack of knowledge or unfamiliarity with non-custodial sentences.
3. As to the way in which the two variables of punitivity inter-correlate, despite the inconsistencies between them, we argue that both measures co-exist and are just as meaningful as each other, with expressive punitivity measuring a general desire for harsher punishment based on the perceived level of court punitivity, and considered punitivity expressing the verdict of an appropriate sentence on a particular case based on the information provided.
4. On punitivity in actual-penal-practice, there are wide variations between countries on both measures (as has been well-documented elsewhere), but the two measures actually result in a rather similar rank-ordering of countries: essentially, countries that imprison less per 1 000 recorded crimes are less likely to imprison in relation to population, and vice versa.
5. There are *weak* correlations between countries that score high on measures of subjective punitivity and punitivity in actual-penal-practice. In crude terms, countries whose populations want tough punishment are more likely to use custody than countries whose populations are less punitive. This could mean that, to some extent, penal practice reflects popular wishes; or, alternatively, that penal practice shapes public attitudes.
6. As to the level of subjective punitivity in different country groups, a clear division was identified between the 'conservative corporatists and social democratic corporatists' against the 'rest of the country groups'. The attitudinal difference is essentially a matter of degree: both the majority of conservative corporatists and social democratic corporatists believe sentences should be tougher, but simply not as much as the other groups.
7. The drivers of subjective punitivity vary considerably between types of country. There were similar patterns of correlation across Western Europe; the strength of relationships varies a great deal. Our multivariate models explained rather less of the variance in subjective punitivity in 'post-communist' countries.
8. Consistent with previous research, the two subjective measures of punitivity appear to measure quite separate dimensions of punitivity. Expressive punitivity is more closely correlated than considered punitivity to a broader set of attitudes about the desirability of socially inclusive or exclusive politics. This trend was strongest in 'Neoliberal' and 'Southern European' countries, and weakest in 'post-communist' countries.
9. Experience of inclusiveness and equality and the political outlook appear to be the major predictors of subjective punitivity. In particular, two indicators consistently appear statistically significant for both expressive and considered punitivity. The first indicator is attitudes to immigration: those who are against immigrants and believe that immigration will worsen the economy and decrease the quality of life show higher levels of punitivity. The second is a self-assessed measure of political orientation: self-assessment as being right wing predicts high levels of punitivity.
10. Experience of crime, anxiety about crime and trust in justice emerged as only weak predictors of punitivity, and punitivity did not appear to be a consequence of distrust in the police and the courts — if anything, the reverse was true.

The consequences of this analysis on policy are clear. If politicians seek to respond to 'expressive punitivity' by giving the public the tougher punishment that they apparently want, this is most unlikely to slake public thirst for punishment. Expressive punitivity would appear to form part of a broader attitudinal set associated with scepticism about socially inclusive politics. Neither measure of subjective punitivity seemed to be well predicted by experience of, or trust in justice, and the implication of this is that adjustments to the institutions of justice will not significantly affect levels of punitivity.

Bearing in mind that there are clearly different dimensions to punitivity reflected in our considered and expressive measures, there remains a compelling policy case for ensuring that there is a degree of correspondence between public sentencing preferences (as measured by considered punitivity) and penal practice.

1. INTRODUCTION

The Norwegian case of an extremist, Breivik, who killed 77 people in a bombing and shooting last year, was recently sentenced to 21 years of imprisonment. This prison sentence has been described as lenient — 'fewer than four months per victim' (The New York Times, 2012) — and as displaying the uniqueness of the Norwegian criminal justice system. The New York Times reported that the case has 'thoroughly tested this gentle country's collective commitment to values like tolerance, non-violence and merciful justice' (Ibid.) The article goes on to describe some parents who lost their children in the attack stating their satisfaction with the verdict, and the peaceful demonstration by the Norwegian public singing a song, which Breivik denounced, as a sign of the country's commitment not to fill Norway with hate but to confirm its commitment to tolerance and inclusiveness.

We cannot help but wonder how the public would have reacted if the case had happened in the UK where this type of sensational story is met with tabloid headlines arguing for the return of the death penalty, or if the case had indeed taken place in a jurisdiction where executions were legal and regularly carried out. The main interest of this paper lies in these differences in punitivity and what makes certain individuals or a country more punitive than others. This article first reviews how punitivity has been defined and researched in previous literature, before examining how different individuals or country groups are in their levels of punitivity. We explore to what extent belief in inclusiveness and equality are enshrined in its citizens, and how this concept may help explain punitivity, using the data from Round 5 of the ESS.

2. MEASURING PUNITIVITY

Empirical analysis of 'punitivity' often fails to explain, or pays little attention to, the meaning of the word itself (Frost 2008). Some researchers presuppose a (universal) 'impulse to punish' and are concerned to explain the roots of this. The clearest examples are to be found in the tradition of evolutionary social psychology. For others, punitivity is a *relative* concept, and the aim is to explain why some individuals or groups should be much readier than others to call for tough punishment, and why some time periods appear to be more characterised by punitiveness than others. There are clear resonances here with the work of Adorno and colleagues that aimed to chart and understand authoritarian behaviour in terms of the interplay between individual personality traits and socio-cultural norms and values. This paper is firmly in the 'relativist' camp, being more concerned with *differences* in punitivity — whether between countries, demographic groups or personality types — than with explaining the *impulse to punish*.

Loosely defined definitions of punitivity have also led researchers to disagree on whether there really is an increase in punitivity (see for example, Kury 2011: 11; Simon 2001; Klimke, Sack, and Schlepper 2011). Many empirical studies identify the determinants of punitivity and explain what makes one demographic group more punitive than another, one country more punitive than another, without clearly defining what the term means.[323] A quick review of the empirical literature will illustrate that punitivity has taken various forms, often constrained by the availability of comparable indicators in surveys or administrative data. For example, the existence of certain *modes* of punishment, such as the existence of the death penalty, has been used as a proxy for punitivity, treated as a sub-category of public attitudes to punishment (Bobo and Johnson 2004; Unnever, Cullen and Fisher 2007; Sims & Johnson 2004; Stack 2003; Costello, Chiricos and Gertz, 2009). *Rates* of punishment have also been a popular measure of

323. Exceptions include Kury (2008); Pratt et al. (2005); Frost (2008).

punitivity across countries with the imprisonment rate being the most widely used measure for punitivity (Hinds 2005; Zimring et al. 2001; Blumstern et al. 2005; Greenberg et al. 2001; Frost 2008; Cavadino and Dignan 2006, 2013). Others for example include the number of police per 100 000 inhabitants (Hinds 2005) and juvenile justice and penal privatisation (Cavadino and Dignan 2006).

Separate to the above indicators — which capture *actual* penal practice — are a set of indicators that measure *subjective* punitivity. While actual-penal-practice punitivity relies on aggregate administrative data collected by state institutions, subjective punitivity indicators are often individual-level data captured by surveys of public opinion. In these, respondents are typically asked whether they think the courts are tough enough, or else they are invited to 'sentence' an offender whose crime is summarised in a vignette (see for example, Hough and Roberts 1999; Roberts and Hough 2005).

These various indicators of punitivity, however, all have limitations. The imprisonment rate, where prison population is expressed at a rate per 100 000 inhabitants — which is probably the most commonly used indicator of punitivity — has been under increased criticism (see for example, Pease 1994, 2010; Frost 2008; Aebi and Kuhn 2000). For instance, Pease (2010: 3) argues that this population-based imprisonment rate offers a misleading measure of a country's punitivity level; he draws the following analogy:

> The impression is created by calculating the prison population as a proportion of the general population, hence assuming that the frailest grandparent and the youngest baby are as likely to commit crime as the young adult. It is like expressing prostate cancer sufferers as a proportion of the population of men and women combined, rather than of men, the only people with prostate glands.

Instead of imprisonment per 100 000 inhabitants, he proposes using prison population in relation to the number of recorded crimes (Pease, 1994; 2010). The logic behind this is that regardless of its punitive orientation, a country with a high level of crime would expect to use imprisonment more than a country with low crime rates. Of course a crime-based punitivity index is itself open to two sorts of criticism. Firstly, recorded crime rates could also be interpreted as an indicator of a country's preparedness to criminalise misbehaviour — which one might expect to co-vary with any punitive impulses — so that the crime-based rate *understates* punitivity for such countries. Secondly, some countries have much more complete systems for recording crime than others — the most obvious example being England and Wales — and again the crime-based index would understate punitivity. Partly for these reasons the population-based imprisonment rate has remained a popular indicator of national punitivity, though other factors also ensure its popularity: the combination of availability of up-to-date figures across the world, its definition is clear, and is easy to access through websites such as the World Prison Brief provided by the International Centre for Prison Studies (ICPS).[324]

As noted by Frost (2008: 278), the theoretical understanding of punitivity has been advanced by the works of Whitman (2003), Roberts et al. (2003), and Tonry (2004). Whilst it is probably true that 'practicable measurement of the concept can never be more than a remote proxy for true punitiveness' (Pease 1994: 118), social scientists should continue to further conceptualise and measure punitivity (Frost 2008). It is beyond the scope of this paper to offer a comprehensive index of punitivity to be used in future research — if indeed this were ever a sensible task to undertake. What we aim to do here is to review the conceptual and empirical relationships that exist between the different measures of punitivity that are typically used in the discussion of the topic.

324. International Centre for Prison Studies (http://www.prisonstudies.org/info/worldbrief/)

3. DATA AND METHODOLOGY

The main dataset used for analysis is Round 5 of the European Social Survey (ESS), which was administered in 2010/11 in 28 countries (data being available at present in 2012 for 26 of these). In addition, we have included data from Japan, but the survey did not include all the questions asked in the ESS, so Japan does not appear in some of the analyses provided below.[325]

Four punitivity indicators were selected for this analysis. The first two are our main measures of subjective (individual level) punitivity, which have been taken from questions asked in the ESS. The other two reflect (at country level) the actual-penal-practice punitivity: population-based imprisonment rate, and crime-based imprisonment rate, the latter being calculated in accordance with Pease's (1994; 2010) recommendation. The following three questions were used to construct our two measures of subjective punitivity:

i. People who break the law should be given much harsher sentences than they are these days. (1=Disagree strongly, 2=disagree, 3=neither agree nor disagree, 4=agree, 5=agree strongly.)[326]
ii. People have different ideas about the sentences which should be given to offenders. Take for instance the case of a 25-year-old man who is found guilty of house burglary for the second time. Which one of the following sentences do you think he should receive? (1=Fine, 2=community service, 3=suspended prison sentence, 4=prison sentence.)[327]
iii. (If prison sentence was chosen) And which of the answers on this card comes closest to the length of time you think he should spend in prison? (1=Short prison sentence: less than a year, 2=medium prison sentence: about 1 year, 3=long prison sentence: about 2-3 years, 4=very long prison sentence: about 4 years and above.)[328]

The second and the third questions were combined to create an ordinal scale variable resulting in: 1=Fine, 2=community service, 3=suspended prison sentence, 4=Short prison sentence, 5=medium prison sentence, 6=long prison sentence, 7=very long prison sentence. As a result we were left with two variables measuring subjective punitivity: one asking whether court practice is tough enough (indicated as i above), and the other yielding an index of the severity of preferred sentences in a case of a burglar convicted for the second time (ii and iii combined).

Previous studies have shown that the public is generally uninformed about sentencing practices, but when respondents are provided with information about a criminal case or sentencing options, their reaction tends to be less punitive (Roberts 1992; Roberts and Hough 2002; Luskin, Fishkin, and Jowell 2002; Roberts and Hough 2005; Hough et al. 2008; De Keijser, Van Koppen and Elffers 2007). For example, De Keijser, Van Koppen and Elffers (2007) using a study conducted in the Netherlands argued that when *individual* cases are presented, people express less punitive views than those expressed in response to more *general* questions. However, in their study the preferred sentences of respondents still remain much more punitive than the sentences pronounced by judges. There is also a series of studies by Roberts and Hough (1998, 1999; Roberts and Hough, 2005a), which showed that the more information respondents are given about a case — including prompts about the available sentencing *options* — the less punitive their preferences are. In other words, in the absence of information, people deploy stereotypes to help them make 'sentencing' decisions, and they feel very punitive towards the stereotypical criminal.

In light of these studies, we can hypothesise — in respect of the question asking whether sentences are tough enough — that respondents in most if not all European jurisdictions will have little idea about *actual* sentencing practice; and, therefore, their preferences will constitute, in effect, a general expression of *perceived* severity of the

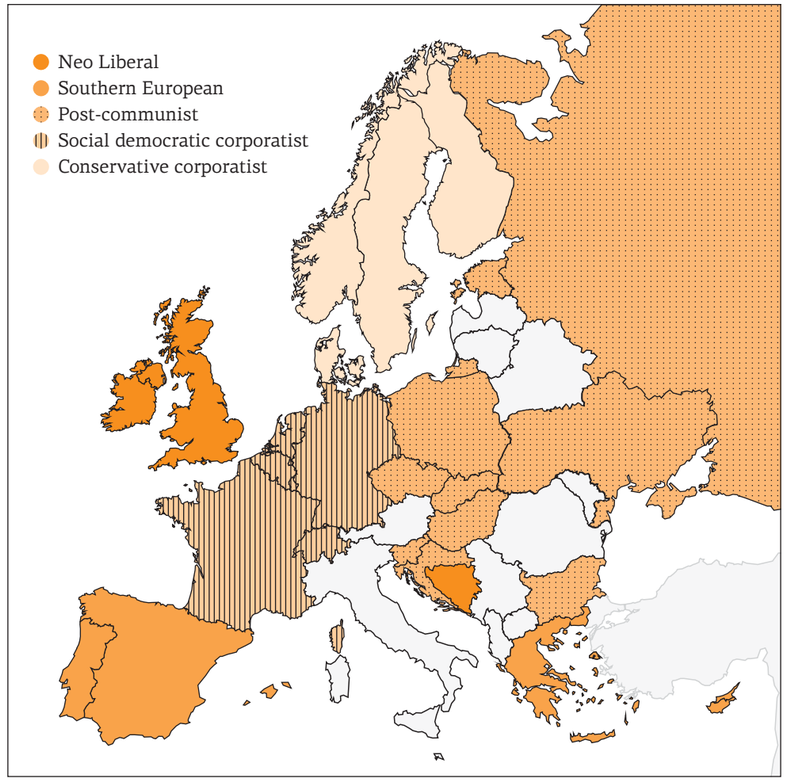
325. The survey in Japan was administered by a Japanese company, Chuo Chosasha, in 2011, organized by Prof. Koichi Hamai at Ryukoku University. (http://www.crs.or.jp/backno/No650/6501.htm)

326. In the original ESS data, this variable (D32) was coded as: 1=Agree strongly, 2=agree, 3=neither agree nor disagree, 4=disagree, 5=disagree strongly, 8=don't know.

327. In the original ESS data, this variable (D38) was coded as: 1=Prison sentence, 2=suspended prison sentence, 3=fine, 4=community service, 5=any other sentence, 8=don't know.

328. In the original ESS data, this variable (D39) was coded as: 1 = 1-3 months, 2 = 4-6 months, 3 = 7-11 months, 4 = about 1 year, 5 = about 2 years, 6 = about 3 years, 7 = about 4 years, 8 = about 5 years, 9 = 6-10 years, 10 = more than 10 years, 88 = don't know.

Figure 1: Country types



NOTES:
1. Cyprus, Japan and Israel have been excluded from the figure.
2. Countries that did not participate in the ESS are unshaded.

courts (hereinafter this variable will be referred to as *'expressive punitivity'*). In comparison, the other question — which asks for people's sentence preference for a burglar — presents a fairly detailed scenario in terms of sex, age, offence, and previous convictions, with a range of sentencing options available, and invites respondents to select a suitable sentence. In view of the more complex task that is involved in doing so, we shall refer to this variable as *'considered punitivity'* in the analysis to follow.

We now turn to our third and fourth variables, measured by actual-penal-practice punitivity. Here we have relied on aggregated administrative data for each country. 'Population-based imprisonment punitivity' measured by imprisonment rate for each country per 100 000 inhabitants, and 'crime-based imprisonment punitivity' measured by imprisonment rate per 1 000 recorded crimes. Figures for the former were taken from the World Prison Brief published by ICPS and figures for the latter from statistics published by Eurostat.

Lastly, when analysing the data in terms of political and social structures, we have used a classification of countries derived from Esping-Andersen's (1990) classic categorisation of national approaches to welfare policy — conservative, liberal and social-democratic — with modifications proposed by other researchers (Leibfried 1992; Castles and Mitchell 1993; Siaroff 1994; Ferrera 1996; Bonoli 1997; Aiginger and Leoni

2009; Cavadino and Dignan (2006; 2013). See in particular Arts and Gelissen 2002 for a review of country groups in a concise table).

Our country classification closely resembles, and borrows most from, Cavadino and Dignan's (2006; 2013) country classification. Our countries are grouped into seven categories (see Figure 1):

- Neo liberal (Great Britain and Ireland);
- Conservative corporatist (Germany, France, Belgium, Switzerland, and the Netherlands);
- Social democratic corporatist (Denmark, Finland, Norway, and Sweden);
- Southern European (Spain, Greece, Portugal, and Cyprus);
- Post-communist (Bulgaria, Estonia, Czech Republic, Hungary, Poland, Slovakia, Ukraine, Russia, Croatia, and Slovenia);
- Israel (containing only Israel); and
- Oriental corporatist (containing only Japan).

4. FOUR MEASURES OF PUNITIVITY

In this section, we take a closer look at our four punitivity indicators. We examine the relationship between the two subjective punitivity variables, the relationship between the two actual-penal-practice punitivity variables, and the relationships between the subjective and actual-penal-practice measures. In other words, we examine:

- how closely expressive and considered punitivity correlate;
- how closely the two imprisonment rates correlate; and
- whether countries with relatively punitive citizens have relatively high imprisonment rates.
-

1. Expressive and considered punitivity

First, expressive punitivity and considered punitivity, analysed at an individual level across the full dataset, showed a weak correlation (r=0.23, p<0.01, N=45,815).[329] Looking at how countries scored on these two variables also provides insight into this weak link. For expressive punitivity, out of 27 countries included in the analysis, 25 countries most frequently 'agreed' that sentences should be harsher. In addition, with the exception of Denmark (44%), in all other countries the proportion of those who either 'agree' or 'agree strongly' that law-breakers should be given much harsher punishment reached a majority. What we find in expressive punitivity is a clear desire across most countries for a toughening up of sentence practice relative to *presumed* practice — which may of course bear little resemblance to actual practice or indeed preferred sentence in a specific case.

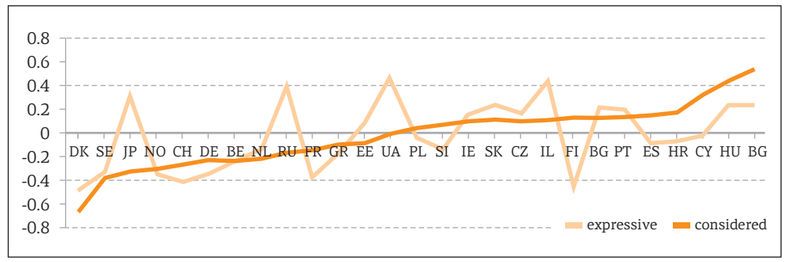
The same uniformity across countries did not emerge for considered punitivity.[330] It is true that prison sentence is the most popular choice of sentence (62%) for the whole dataset; however, there is wide country variation. For example, only 43 per cent of the Finnish sample selected prison sentence, but this figure goes up to 78 per cent when we turn to Israel. It should be added that the enthusiasm for prison sentences may not simply be a reflection of the individuals' punitivity level, but may be a sign of their lack of knowledge or unfamiliarity with non-custodial sentences. In former communist countries, probation and community orders are less well developed and not often discussed in the media (Kury 2011: 11), which is consistent with our findings: 25 per cent of German respondents chose community order, Bulgaria scored 15 per cent, and Japan — where there is no community order in law — scored 7 per cent.

329. The result is highly statistically significant — which is perfectly consistent with the weak correlation, because the sample size is very large indeed. There is a stronger correlation when using the mean for expressive and considered punitivity in country-level analyses (r=0.51, N=27).

330. Expressive punitivity: M=3.8; SD=0.91. Considered punitivity: Mean = 4.2; SD=1.84.

The way in which these two variables inter-correlate is shown in Figure 2. Both variables have been standardised to have a mean of zero and a standard deviation of one. Expressive punitivity is ranked from the left (low to high). The figure highlights inconsistencies between the two variables: Russia, Japan, and Ukraine have much higher scores for considered punitivity than one would expect on the basis of expressive punitivity, and Finland has much lower scores. Furthermore, while Japan ranked low on expressive punitivity — third from last — with a mean score of 3.5, 72 per cent of the Japanese respondents opted for a prison sentence. In addition, out of that 72 per cent, a long prison sentence (about 2-3 years) was the most frequently selected option.

Figure 2: Expressive and considered punitivity



NOTES:

1. Expressive and considered punitivity have been standardised to have a mean of zero and a standard deviation of one.
2. See Appendix 1 for abbreviations of countries.

What we have seen so far is that two variables seem to be measuring different aspects of punitivity, with one showing a much greater degree of cross-national consistency. Does this mean that considered punitivity is a more 'accurate' measure of punitivity because it gives people more information? We disagree and Hutton (2005: 246) describes this well by stating that:

> Punitive attitudes exist alongside more liberal views, perspective varies from the global to the local and discussion about individual cases generates different discourses from discussion of the practices of agencies and institutions ...While it may demonstrate that people express less punitive views when discussing individual cases in the context of better quality information, it does not mean that the punitive views expressed by survey respondents are any less 'real'.

We argue that both measures of punitivity co-exist and are just as meaningful as each other, with expressive punitivity measuring a *general* desire for harsher punishment based on the *perceived* level of court punitivity, and considered punitivity expressing the verdict of an *appropriate* sentence on a *particular* case based on the information provided.

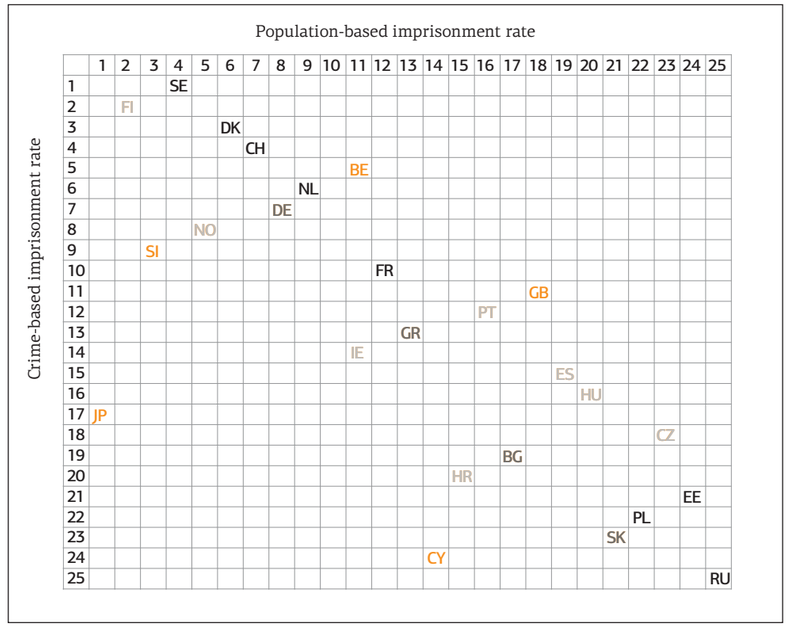
2. The two imprisonment rates: actual-penal-practice measures

The crime-based imprisonment rate per 1 000 recorded crime is calculated by dividing the actual prison population by 'total recorded crime' as defined by Eurostat.[331] Population-based prison population per 100 ,000 inhabitants is taken from ICPS World

331. Eurostat: http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/themes

Prison Brief figures. Figure 3 displays the relationship between the two indicators by ranking, where rank 1 is the lowest imprisonment rate. The table shows that countries perform very similarly on the two indicators with a very high correlation (r=0.9, p<0.01, N=25): countries that imprison less per 1 000 recorded crimes are less likely to imprison in relation to population, and vice versa.[332] There are however some countries which are outliers. Countries that rank more than five places apart between the two imprisonment rates are highlighted in bold. Belgium and the United Kingdom are less punitive compared to other countries when measured by the crime-based imprisonment rate; and Slovenia, Cyprus, Japan are more likely to be punitive when measured by crime-based imprisonment rate.

Figure 3: Crime-based and population-based imprisonment rates



NOTES:

1. Crime-based prison population rates are calculated from figures mainly from 2009 Eurostat and where figures are missing they are substituted with ICPS data. Recorded crime figures for Ireland (2006), Russia (2005), and Japan (2008) are not from 2009.
2. Population-based prison population rates are taken from ICPS' World Prison Brief, which are for 2011 and 2012.
3. Figures for the United Kingdom have been calculated by combining Scotland, England & Wales, and Northern Ireland.
4. The table does not include Israel and Ukraine because figures for recorded crime were not available. However, their population-based imprisonment rates are displayed next to the table.
5. See Appendix 2 for the actual crime-based and population-based imprisonment rates.
6.

3. Subjective and actual-penal-practice punitivity

Table 1 shows the correlation between subjective punitivity (expressive and considered) and actual-penal-practice punitivity (crime-based and population-based imprisonment rate). The analysis was done with individual-level data by incorporating the country-level imprisonment rate into the ESS dataset. Taking into consideration Russia's exceptionally high imprisonment rates for both population-based and crime-based measures (see Appendix 2 for the Russian figures), the table shows results including and excluding Russia. What we find is that subjective measures of punitivity have a statistically significant but very weak relationship with actual-penal-practice punitivity.

332. The correlation is equally high when excluding Russia — the outlier — from the analysis (r=0.7, N=24).

Table 1: Correlation between actual-penal-practice punitivity and subjective punitivity using individual data

		Crime-based imprisonment	*Population-based imprisonment*
Expressive punitivity	with Russia	-.03**	-.01*
	without Russia	.11**	.14**
Considered punitivity	with Russia	.23**	.24**
	without Russia	.12**	.15**

NOTES:

1. * Correlation is significant at .05 level (2-tailed). ** Correlation is significant at .01 level (2-tailed).
2. With Russia: N=47,198; without Russia N=33,794.
3. The table does not include Israel and Ukraine for crime-based imprisonment figures.

At an individual level, the relationship between how citizens 'feel' about punitivity and how the state 'practices' its punishment is at best very weakly connected. However, the picture is of course very different when we shift to country-level analysis: countries with a higher imprisonment rate tend to have higher levels of country *average* subjective punitivity (Table 2). It is the country average considered punitivity that correlates higher — rather than expressive punitivity — to both measures of imprisonment rates.

Table 2: Correlation between actual-penal-practice punitivity and subjective punitivity using country-level data

		Crime-based imprisonment	*Population-based imprisonment*
Expressive punitivity	with Russia	0.23	0.02
	without Russia	.56**	.37**
Considered punitivity	with Russia	.61**	.66**
	without Russia	.61**	.68**

NOTES:

1. * Correlation is significant at .05 level (2-tailed). ** Correlation is significant at .01 level (2-tailed).
2. The table does not include Israel and Ukraine for crime-based imprisonment figures.

5. COUNTRY TYPE AND PUNITIVITY

In this section, we explore how *country groups* differ from each other in their punitivity levels. Cavadino and Dignan (2006; 2013) used the population-based imprison-

ment rate as a proxy for the level of state punitivity and argued that political economy is a powerful tool in highlighting different levels of enthusiasm for incarceration. We extend their country-level analysis to the individual level by examining its application to subjective punitivity. We ask whether measures of subjective punitivity also cluster according to political and social structure.

Comparing how country groups behave for expressive and considered punitivity shows a clear division between the 'conservative corporatists and social democratic corporatists' against the 'rest of the country groups'. Conservative corporatists and social democratic corporatists were twice as likely to 'strongly disagree' or 'disagree' that sentences should be harsher (expressive punitivity) ranging from 15 to 17 per cent, while the rest of the groups scored between seven and nine per cent. As for considered punitivity, the selection of a 'very long prison sentence (about four years and above)' for a second-time burglary again showed a marked distance: there was 2 to 4 per cent support for a 'very long prison sentence' by conservative corporatists and social democratic corporatists, which can be contrasted with 11 to 22 per cent support by the rest of the groups. While there is no doubt about the divide between the two groups, the differences are not opposite. It would be inaccurate to portray the image that the social democratic corporatists and the conservative corporatists are not punitive and the rest are. The majority of the conservative corporatists and the social democratic corporatists both believe sentences should be tougher, but simply not as much as the other groups; the attitudinal difference is a matter of *degree*.[333] (See Appendix 3 for the breakdown of figures for all country groups.)

Figure 4 plots expressive punitivity and considered punitivity by using country averages. Both variables have been standardised to have a mean of zero and a standard deviation of one, where the negative figures indicate that the country average scored below the total average in punitivity levels. The figure reiterates the uniqueness of social democratic corporatists and conservative corporatists. The countries in dark and white squares — with the exception of Finland — all cluster in the bottom left corner, where countries scored negative on both subjective punitivity measures. For the rest of the country groups it is more difficult to see a clear pattern. While the two neoliberal countries (UK and Ireland) are clustered closely, post-communist and Southern European countries are scattered widely, though not in the area dominated by social democratic corporatists and conservative corporatists appear.

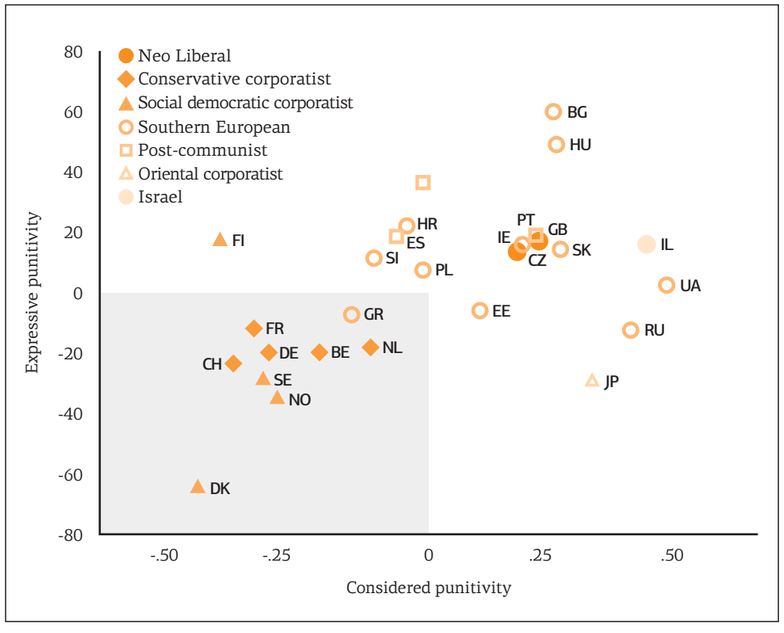
Why do social democratic corporatists and conservative corporatists express much lower levels of *subjective* punitivity? With regard to actual-penal-practice punitivity, it has been argued that different forms of political economy have very different approaches to crime control: countries which adhere to neoliberal economic policies tend to exercise social control through criminal justice strategies, whilst social democratic states opt for welfare strategies (Beckett and Western 2001; Simon, 2001; Wacquant 2009; Lacey 2008; Cavadino and Dignan 2006; 2013). What we have seen so far is that social democratic corporatists and the conservative corporatists have lower levels of actual-penal-practice punitivity as well as lower levels of subjective punitivity. What sort of relationship exists between a state's penal policy and its citizens' public opinion? Are the attitudes of individuals shaped by their country's social policy? Or do citizens exercise their democratic will? Or is there a more complex interaction?

Cavadino and Dignan (2013) in developing their theory on political economy and punitivity, offer several hypotheses on why there is such a link. One of which is the 'public-driven punishment hypothesis'. They argue that:

A second possible explanation for the link between political economy and punishment could be called the 'public-driven punishment hypothesis'. Perhaps punishment is driven by public opinion, with public opinion in turn being conditioned by

333. Focusing on the remaining country groups, it is more difficult to see a pattern. The Southern Europeans score is just as high as that of the conservative corporatists and the democratic corporatists in their preference for community sentence, but also has an appetite for very long prison sentence. (See Appendix 3 for the breakdown of figures for all country groups.)

Figure 4: Subjective punitivity and country groups



the society's culture, which is linked to its political economy. A society's cultural attitudes towards its deviant and marginalised fellow citizens will be both embodied and embedded in the political economy: a society whose culture encourages certain attitudes is likely to create a political economy which both expresses such attitudes and tends to reinforce and 'reproduce' them over time, helping them to persist across generations (Cavadino and Dignan 2013).

We examine whether factors which are considered to explain actual-penal-practice punitivity also explain subjective punitivity. In other words, can determinants such as communitarian or egalitarian outlook, which are characteristics of a welfare state, also explain subjective punitivity? Cavadino and Dignan (2013) depict the policy features of social democratic corporatists and conservative corporatists as 'communitarian' with stronger community ties (as opposed to individualistic social ethos) which aims for an 'inclusive' and 'egalitarian' society (as opposed to an exclusive or marginalising society). In addition, they argue that there is less social and economic inequality and citizens 'feel (more) cared for by society ' (Cavadino and Dignan 2013) in social democratic corporatist and conservative corporatist countries.[334] In an attempt to measure to what extent these state-level policies — of inclusive and egalitarian states — are reflected by citizens in terms of their belief, experience and perception at an individual level, the following indicators have been selected from the ESS questions.

Belief in inclusiveness and social equality:

i. attitudes towards sexual orientation;
   - Measured by attitudes towards gay men and lesbians.[335]

ii. attitudes towards immigration; and
   - Measured by openness to immigration for different race or ethnic groups, and poorer countries outside of Europe; attitudes on immigration in terms of its impact on the economy, cultural life, and general well-being.336

334. Cavadino and Dignan (2013) offer characteristics for social democratic corporatists and social democratic corporatists separately, but in our article we have combined the characteristics of the two country groups. 335. Question B31 of the ESS Round 5.

336. Questions B36, B37, B38, B39, and B40 of the ESS Round 5. Principal component analysis was conducted to test for validity, before checking its scale reliability (Cronbach's alpha was 0.84).

iii. attitudes towards equality between men and women.
- Measured by attitudes towards women's role in the family, and women's position at work.[337]

Perception and experience of equality, 'feel cared for by the state' and a sense of belonging:

iv. experience of economic inequality;
- Measured by levels of economic hardship for receiving lower pay, using savings or getting in debt, and cutbacks on holidays and household equipment.3[38]

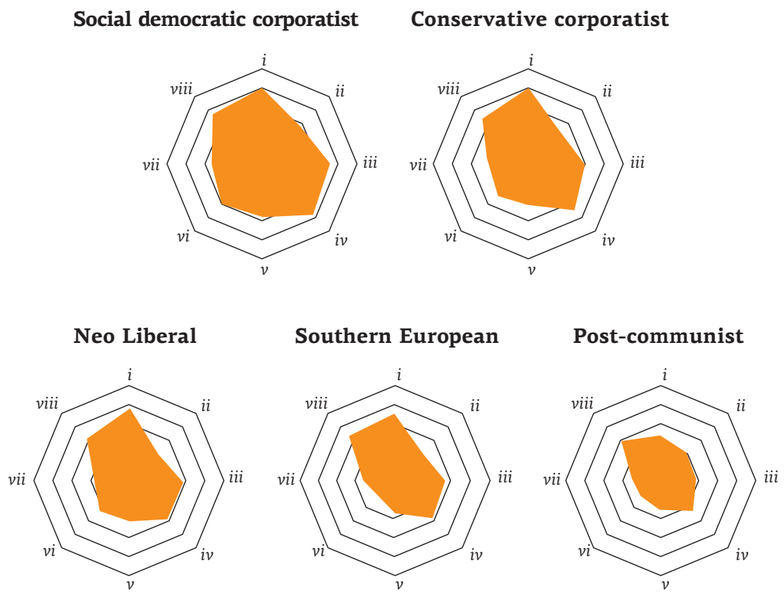
v. satisfaction with services provided by the state;
- Measured by satisfaction with the state of the country's economy, government, education, and health services.[339]

vi. perception of court equality in practice;
- Measured by perception towards the court in protecting the rich and the powerful.[340]

vii. trust in institutions; and
- Measured by trust in the country's parliament, the legal system, the police, politicians, political parties, the European Parliament, and the United Nations.[341]

viii. sense of community.
- Measured by frequency of social meetings with friends, relative and work colleagues.[342]

Figure 5: Attitudes towards inclusiveness and equality by country type



NOTES:
1. Japan and Israel are not included in the analysis.
2. All indicators have been standardised to range from zero to one, with zero at the centre of the chart and one at the edge of the chart.
3. Roman numerals refer to the indicators explained in this section.

337. Questions G4 and G5 of the ESS Round 5. Principal component analysis was conducted to test for validity, before checking its scale reliability (Cronbach's alpha was 0.63).

338. Questions G8, G9, and G10 of the ESS Round 5. Principal component analysis was conducted to test for validity, before checking its scale reliability, Cronbach's alpha was 0.85.

339. Questions B25, B26, B28, and B29 of the ESS Round 5. Principal component analysis was conducted to test for validity, before checking its scale reliability (Cronbach's alpha was 0.76).

340. Question D32 of the ESS Round 5.

341. Questions B4, B5, B6, B7, B8, B9, and B10 of the ESS Round 5. Principal component analysis was conducted to test for validity, before checking its scale reliability, (Cronbach's alpha was 0.91).

342. Question C2 of the ESS Round 5.

Figure 5 highlights the above indicators for each country type. Each measure has been standardised to range from zero to one. The further you go out in the radarchart, the more you embrace inclusiveness and perceive their society to be equal. What we see is that the social democratic corporatists — with the largest area covered by the radarchart — incorporate the essence of inclusive and egalitarian policies across all eight indicators at the individual level. The conservative corporatists also show — though not to the same extent as the social democratic corporatists — higher levels of inclusiveness in comparison to the other groups. In this sense, we could argue that what defines these two country types at the state-level policy is also enshrined in individual belief, perception and experience. Furthermore, this finding paints an optimistic picture, an inclusive and egalitarian outlook being a potential explanation for predicting low levels of subjective punitivity.

However, the link between 'inclusiveness and equality' and punitivity may not be so straightforward. The difference between neoliberals and the social democratic corporatists are not marked at all. Neoliberal countries seem to express a similar social and political outlook as the conservative corporatist ones, but had shown different levels of subjective punitivity, with the former being more punitive. That said, post-communist countries, which include some of the highest subjective punitivity countries, came out to occupy the smallest area in the radarchart, showing citizens to have the most marginalising outlook with highest levels of inequality.

6. PREDICTING PUNITIVITY

In our last section, we test how much this political outlook and experience of inclusiveness and equality predict subjective punitivity. Hierarchical linear regression was used to assess the importance of this 'block' while controlling for other blocks. The following five blocks were used. 'Block 2: Inclusiveness and equality — social and political outlook and experience — is what we are primarily interested in as they attempt to measure the attitudes which were explored in the previous section, plus some additional indicators that were not included in the radarchart.

Demographics in block 1 have been included to control for the variables in block 2. By including demographic variables, the intention is to observe the effect of block 2 to be independent of the effects of block 1. Demographic variables are important not because they directly explain death penalty attitudes, but because they are connected to the core values and beliefs that lie behind these demographic variables.

Block 2 can be described as an extension of the work carried out by Tyler and Weber (1982) and more recently, for example by Vollum, Longmire, and Buffington-Vollum (2004), Vollum and Buffington-Vollum (2009), Unnever, Cullen, and Roberts (2005), and Buckler, Davila, and Salinas (2008) on the death penalty in the US; and Hough, Lewis, and Walker (1988) and King and Maruna (2009) in the UK on general punitivity. Their argument is that it is 'basic political and social values' (Tyler and Weber 1982: 21), such as authoritarianism and liberalism, or belief in retribution that underpin people's attitudes to punitivity: they have been referred to as 'symbolic' factors (Tyler and Weber 1982), 'value-expressive' (Vollum, Longmire, and Buffington-Vollum 2004; Vollum and Buffington-Vollum 2009), 'expressive' (King & Maruna, 2009), or 'core-values' (Unnever, Cullen, and Roberts 2005; Buckler, Davila, and Salinas 2008). These 'deeply held beliefs and values' (Vollum and Buffington-Vollum 2009: 20) are contrasted with 'instrumental factors', which are 'logical, rational purposes often serving a more utilitarian function' (Ibid.), such as experience of victimisation or knowledge about crime and the criminal justice system.

Tyler and Weber (1982), using the distinction between symbolic and instrumental factors, found that both instrumental and symbolic factors explained support for death penalty, but when the relative influence of the two factors was assessed, symbolic factors were more influential. In addition, a survey conducted by Hough, Lewis and Walker (1988), which explored the determinants of punitivity, again found that the variable most strongly correlated to punitivity was again the 'general disciplinarian outlook' (i.e. symbolic), implying that attitudes towards punishment will be resistant to change. A Canadian survey reported by Brillon (1988: 109) offered a similar view:

> It would seem that punitiveness is a basic attitude ... which is inherent in people's personality. As such, it cannot be explained by how people perceive the phenomenon of crime or by the image people have of the system of criminal justice.

More recent studies also confirm the earlier findings that symbolic factors are more powerful in explaining punitivity, though what variables they include in the study as measuring symbolic factors differ depending on the data they use. For example, authoritarianism — a tendency to value order, rules and social convention — has been found to be a strong predictor of death penalty support (Stack, 2003; Unnever and Cullen 2007; Buckler, Davila, and Salinas, 2008). Individualism, which focuses on the individual's merit rather than valuing equality for all, has been found to be positively associated with punitivity, and egalitarianism on the other hand has been found to be negatively associated (Soss, Langbein & Metelko, 2003; Unnever & Cullen, 2007).

In addition, Lappi-Seppälä (2008a, 2008b) relies on the Durkheimian and Weberian conceptions of trust to explain punitivity. The Durkheimian tradition links levels of repression to feelings of social solidarity, social cohesion and social capital, measured by trust in people, which he calls 'horizontal, personalised trust' (Lappi-Seppälä 2008: 105). The Weberian tradition links levels of penal repression to power concentration — the need to defend political authority — measured by trust in institutions, which he refers to as 'vertical, institutional trust' (Lappi-Seppälä, 2008b: 105). He argues that both forms of trust are essential in measuring punitivity. The lack of institutional trust creates political pressures towards more repressive means to maintain state authority, and the lack of personal trust associated with fears results in calls for punitive demands. On the other hand, the combination of increased personal trust strengthens informal social control, and institutional trust promotes norm compliance, and decreases the need to resort to punitive penal measures (ibid.) He reaches the conclusion that levels of trust are indeed negatively associated with punitivity: trusting societies tend not to be punitive. King and Maruna (2009) included, among other variables, trust in people as a proxy for social capital in predicting punitivity in general. They found that it had a direct negative relationship to one's willingness to endorse harsh sanctions for criminals (King and Maruna, 2009, p. 160), which confirms Lappi-Seppälä's (2008a, 2008b) argument.

What we have done in block 2 is to follow the same conceptual framework but to narrow the focus to beliefs about inclusiveness and equality aspect[343].

Breakdown of blocks

Block 1: Demographics
Measured by gender, age, education, belonging to an ethnic minority, religiosity, unemployment history, difficulty in borrowing money, and income.

Block 2: Inclusiveness and equality — social and political outlook and experience.
Measured by attitudes towards immigration, equality between men and women, sexual orientation, experience of economic inequality, satisfaction with the state, trust in institutions, belonging to a discriminated group, attitudes towards political tolerance of ban on democracy, political orientation, trust in people, and attitudes towards the level of state involvement in reducing poverty.

Block 3: Well-being
Measured by self-assessed level of health, happiness, and job satisfaction, and the frequency of social meet-ups.

Block 4: Experience and perception of crime
Measured by experience of victimisation, fear of crime, fear of crime affecting quality of life, morality on law breaking, perceived risk of being caught of law breaking behaviour, actual law breaking experience.

Block 5: Distrust in the criminal justice system
Measured by attitudes towards distributive fairness in the police and the courts, procedural fairness, effectiveness, moral alignment, and willingness to cooperate.

343. This decision largely reflects the availability of scalable measures in the fifth round of the ESS. We were unable to derive a viable measure of right-wing authoritarianism, for example.

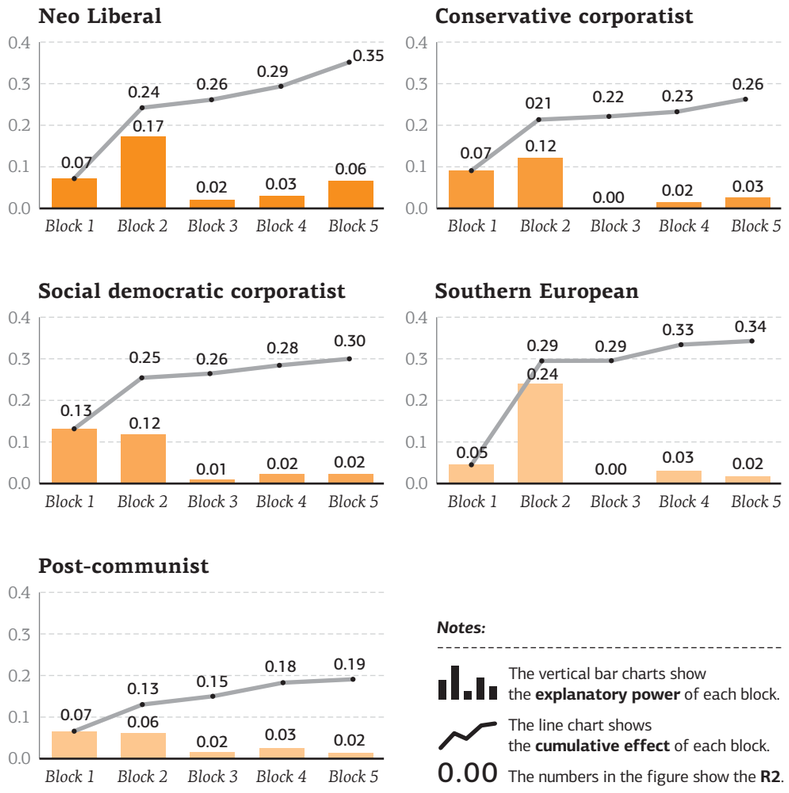
Block 4 and to some extent block 5 can be regarded as testing the explanatory power of instrumental factors. Block 4 primarily deals with experiences of victimisation, fear of crime, and attitudes on law breaking in terms of actual law breaking, perception of the risk of getting caught, and the importance of law-abidance. The literature suggests that experience of victimisation does not predict punitivity (King and Maruna 2009; Unnever, Cullen and Fisher 2007; Bobo and Johnson 2004; Sims and Johnson 2004; Stack 2003; Costello, Chiricos, and Gertz, 2009). On the other hand, concern about crime was found to be a strong predictor of punitive attitudes, especially when people believe crime to be disproportionately violent (Chiricos, Welch, and Gertz 2004, 2009). King and Maruna (2009), however, found that concerns about crime ceased to be a significant predictor once put together with a number of symbolic factors, such as general anxiety and trust in people.

Block 5 also deals with attitudes towards the criminal justice system, but focuses attention on the concept of trust. Measures of trust were also included in block 2, though it was general trust in various institutions and trust in people, rather than trust in the police and the courts specifically. Scholars have put forward the theoretical argument that distrust is helpful in understanding public support for punitivity (Tonry 1999; Garland 2001). It has been suggested that the rise of harsh policies in the US and the UK can be attributed to the government's efforts to regain public trust by resorting to punitive penal policies (Garland 2001). We hypothesise for our analysis that distrust in the police and the courts is expressed by punitiveness. In addition, the procedural justice theory has also made contributions in explaining why people trust institutions in respect of which the ESS Round 5 has included various questions to measure such trust (see works by Tyler and colleagues: Tyler, 2006; Tyler, 2007; Tyler & Huo 2002; Tyler & Wakslak, 2004; Hough et al., 2010; Jackson et al., 2012a; Jackson et al., 2012b; Hough et al, 2012) , though the procedural justice theory has yet to fully explain how trust in institutions is related to punitivity.

Figure 6 presents the relative contribution in predicting expressive punitivity. Hierarchical linear regression has been conducted for all country groups. The vertical bar charts show the R^2 of each block, while the line chart shows the cumulative effect of each block. The model explains most variance in expressive punitivity for people in neoliberal countries and Southern Europeans, with 35 per cent and 34 per cent respectively.

Conducting the regression for considered punitivity using again the same blocks produces less explanatory power (Figure 6). The most marked difference is for those in social democratic corporatist countries, 30 per cent of the variance explained for

Figure 6: Contribution of each block to the overall model, predicting expressive punitivity

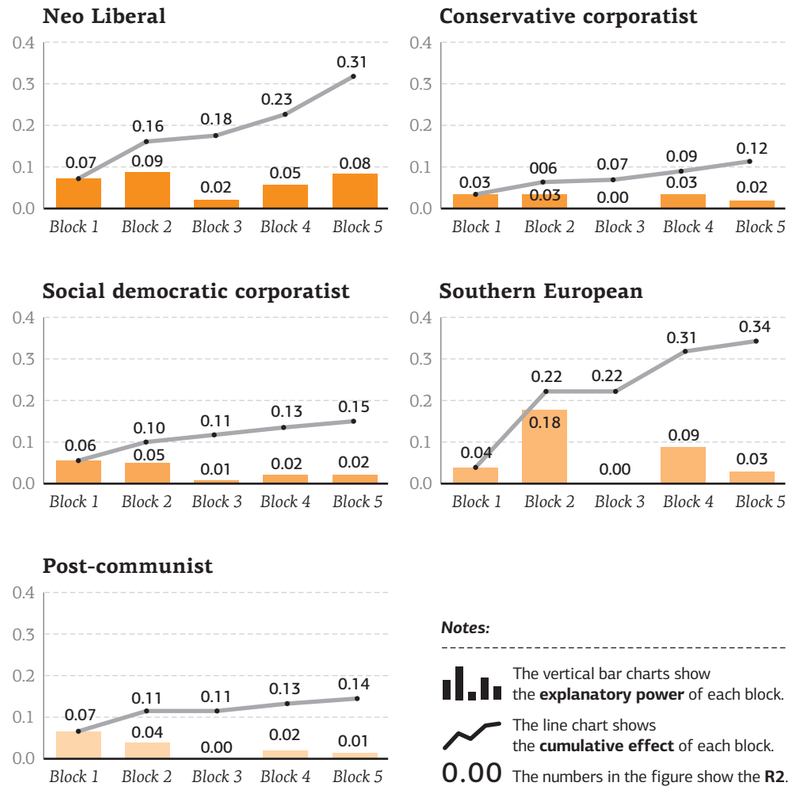


expressive punitivity goes down to 15 per cent. This difference between expressive and considered punitivity confirms what we have found above: both indicators measure different aspects of punitivity, and the blocks used in the analysis helps explain expressive punitivity better than considered punitivity.

Shifting the focus to which block had most explanatory power, we find a consistent pattern between expressive and considered punitivity. While the model for considered punitivity explains less than the model for expressive punitivity, block 2 contributed the most to the overall model. Examining expressive punitivity more closely, block 2 is the largest contributing block in predicting expressive punitivity when excluding block 1. Block 2 and block 1 has very similar explanatory power for conservative corporatists, social democratic corporatists and post-communists being almost joint-first in being explaining punitivity. For Southern Europeans and neoliberals, block 2 is by far the largest predictor block: nearly half of the total R^2 of neoliberals (17 per cent out of 35 per cent in total), and the majority of R^2 of Southern Europeans (24 per cent out of 34 per cent).

In block 2, there are two indicators, which consistently appear statistically significant for both expressive and considered punitivity. One is attitudes towards immigration: those who are against immigrants coming into their country and believe that immigration will worsen the economy and decrease the quality of life show higher levels of punitivity. This is not surprising as hostility towards immigrants and feeling

Figure 7: Contribution of each block to the overall model, predicting considered punitivity



punitive towards offenders are both expressions of a desire for marginalisation of the 'other'. Second, self-assessed measure of political orientation also explained punitivity across country types and for both subjective punitivity. Self-assessment as being right wing predicted high levels of punitivity.

Other attitudinal blocks were not as powerful in predicting punitivity in comparison to block 2. It should be noted for block 4 that consistent with previous literature, experience of victimisation was not statistically significant, but worry about crime was, for some country groups. For neoliberals and Southern Europeans in expressive punitivity, though the worry about affecting quality of life was not a significant predictor for both groups of countries. In addition, morality on law-breaking was also a significant predictor. This finding is consistent with Stack (2003) where he considered the impact of an absolutist mentality on punitivity.

APPENDIX

Appendix 1: Country name abbreviations in alphabetical order

abb/ns	*Country name*	*abb/ns*	*Country name*
BE	Belgium	**HR**	Croatia
BG	Bulgaria	**HU**	Hungary
CH	Switzerland	**IE**	Ireland
CY	Cyprus	**IL**	Israel
CZ	Czech Republic	**NL**	Netherlands
DE	Germany	**NO**	Norway
DK	Denmark	**PL**	Poland
EE	Estonia	**PT**	Portugal
ES	Spain	**RU**	Russian Federation
FI	Finland	**SE**	Sweden
FR	France	**SI**	Slovenia
GB	United Kingdom	**SK**	Slovakia
GR	Greece	**UA**	Ukraine

Appendix 2: Crime-based and population-based imprisonment rates

	Crime based	*Population based*		*Crime based*	*Populat. based*
Sweden	5	70	Spain	33	153
Finland	**7**	**59**	**Hungary**	**39**	**173**
Denmark	8	74	Japan	40	55
Switzerland	**9**	**76**	**Czech Republic**	**58**	**223**
Belgium	10	100	Bulgaria	66	146
Netherlands	**12**	**87**	**Croatia**	**67**	**115**
Germany	12	83	Estonia	74	252
Norway	**12**	**73**	**Poland**	**76**	**222**
Slovenia	16	64	Slovakia	86	203
France	**19**	**101**	**Cyprus**	**94**	**112**
United Kingdom	19	153	Russian Federat.	243	511
Portugal	**26**	**126**	**Israel**	**n/a**	**236**
Greece	30	111	Ukraine	n/a	336
Ireland	**32**	**98**			

Appendix 3: Political economy and subjective punitivity

	Expressive punitivity			*Considered punitivity*			
	Mean	*Strongly disagree & disagree (%)*	*Total (N)*	*Mean*	*Community Order (%)*	*Very long prison sentence (%)*	*Total (N)*
Neo Liberal	3.9	8	5,358	4.5	12	11	5,195
Conservative corporatist	**3.6**	**15**	**15,028**	**3.5**	**27**	**4**	**14,485**
Social democratic corporatist	**3.5**	**17**	**2,043**	**3.4**	**28**	**2**	**1,962**
Southern European	3.9	7	5,737	4.0	29	13	5,136
Post-communist	3.8	9	21,403	4.7	16	22	18,615
Israel	3.9	9	519	4.9	9	22	479
Oriental corporatist	3.5	9	1,108	4.7	7	15	943

NOTE:

1. Expressive punitivity (sentences should be harsher) is coded as: 1=Disagree strongly, 2=disagree, 3=neither agree nor disagree, 4=agree, and 5=agree strongly.
2. Considered punitivity (punishment for a second-time burglary) is coded as: 1=Fine, 2=community service, 3=suspended prison sentence, 4=Short prison sentence, 5=medium prison sentence, 6=long prison sentence, and 7=very long prison sentence.
3. 'Very long prison sentence' is 'about four years and above'.

REFERENCES

Aebi, M. H., and Kuhn, A. (2000). Influences on the prisoner rate: number of entries into prisons, lengths of the sentences and crime rate. *European Journal on Criminal Policy and Research* 8: 65-75.

Aebi, M. & Linde, A. (2012). Conviction Statistics as an Indicator of Crime Trends in Europe from 1990 to 2006. *European Journal on Criminal Policy and Research* 18: 103-144.

Aebi, M. (2008). Measuring the Influence of Statistical Counting Rules on Cross-National Differences in Recorded Crime, in Aromaa, K. & Heiskanen, M. (Eds.), *Crime and Criminal Justice Systems in Europe and North America 1995–2004*, HEUNI publication No. 55, Helsinki: pp. 200-218.

Aebi, M. (2010). Methodological Issues in the Comparison of Police-Recorded Crime Rates. In Shoham, S.; Knepper, P. & Kett, M. (Eds.). *International handbook of criminology*. Boca Raton: CRC Press: 211-222.

Aebi, M., de Cavarlay, B., Barclay, G. et al. (2010). *European Sourcebook of Crime and Criminal Justice Statistics – 2010. 4th edition*. Den Haag: Boom Juridische Uitgevers. Available online at: http://www.europeansourcebook.org/ob285_full.pdf (last accessed on 18 July 2012).

Aebi, M., Killias, M. & Tavares, C. (2002). Comparing crime rates: The International Crime (Victim) Survey, the European Sourcebook of Crime and Criminal Justice Statistics, and the Interpol Statistics. *International Journal of Comparative Criminology* 2(1): 22-37.

Aiginger, K. and Leoni, T. (2009). Typologies of Social Models in Europe. Available from: http://www.socialpolitik.ovgu.de/sozialpolitik_media/papers/Aiginger_Karl_uid563_pid502.pdf. Accessed on 15 August, 2012.

Alvazzi del Frate, A. (2010). Chapter 4 - Complex crimes. In Harrendorf, S.; Heiskanen, M. & Malby, S. (Eds.) (2010). *International Statistics on Crime and Justice*, HEUNI-UNODC, Helsinki: 65-73.

Alvazzi del Frate, A. (2010). Crime and criminal justice statistics challenges. In Harrendorf, S.; Heiskanen, M. & Malby, S. (Eds.) (2010). *International Statistics on Crime and Justice*, HEUNI-UNODC, Helsinki: 167-175.

Andenaes, J. (1974). '*Punishment and Deterrence'*, Ann Arbor: University of Michigan Press.

Applegate, B. K., Cullen, F. T., Fisher, B. M., & Vander Ven, T. (2000). Forgiveness and Fundamentalism: Reconsidering the relationship between correctional attitudes and religion. Criminology, 38, pp. 719–754.

Applegate, B. K., Wright, J. P., Dunaway, R. G., Cullen, F. T., & Wooldredge, J. D. (1993). Victim— offender race and support for capital punishment: a factorial design approach. American Journal of Criminal Justice, 18(1), pp. 95-115.

Aromaa, K., Leppä, S., Nevala, S. & Ollus, N. (eds.) (2003). Crime and Criminal Justice in Europe and North America 115-1997: Report on the Sixth United Nations Survey on Crime Trends and Criminal Justice Systems, HEUNI, Helsinki. Available online at: http://www.heuni.fi/Etusivu/Publications/HEUNI reports/1198085297071 (last accessed on 09 May 2012):

Arts, W. and Gelissen, J. (2002). Three worlds of welfare capitalism or more? A state-of-the-art report. *Journal of European Social Policy* 12: 137-158.

Atkinson, M. and J. Piskorski (2011). 'Frontex real-time News Event Extraction Framework', *Proceedings of the 17th ACM SIGKDD international conference on Knowledge discovery and data mining*, pp. 749-752.

Barak, G. (ed.) (1995). *Media, Process and the Social Construction of Crime: Studies in Newsmaking Criminology*. New York, London: Garland Publishing.

Barak, G. (1988). 'Newsmaking Criminology: Reflections on the Media, Intellectuals and Crime' *Justice Quarterly* (2): 565–87.

Barber, B. (1983). *The logic and limits of trust*. New Brunswick, N.J.: Rutgers University Press.

Barclay, G. (2000). The Comparability of Data on Convictions and Sanctions: Are International Comparisons Possible?, *European Journal on Criminal Policy and Research* 8: 13-26.

Barkan, S. E., & Cohn, S. F. (1994). Racial prejudice and support for the death penalty by Whites. Journal of Research in Crime and Delinquency, 31, pp. 202-209.

Barker, H. (1998). Newspapers, Politics, and Public Opinion in Late Eighteenth-Century England. USA: Oxford University Press.

Barker, M. and Petley, J. (1996). *Ill Effects: The Media Violence Debate*, 2nd Edition. London: Routledge.

Becker G. S. (1974). '*Crime and Punishment: An Economic Approach*', in G. S. Becker and W. M. Landes (eds), '*Essays in the Economics of Crime and Punishment*', UMI, p. 1-54.

Beckett, K. and Western, B. (2001). Governing social marginality: welfare, incarceration, and the transformation of state policy. *Punishment and Society* 3: 43-59.

Beckett, K. (1997). *Making Crime Pay: Law and Order in Contemporary American Politics*. New York: Oxford University Press.

Beetham, D. (1991). '*The Legitimation of Power'*, Basingstoke: Palgrave-Macmillan.

Berger, P. L. and Luckmann, T. (1999). *Socialinis tikrovės konstravimas*. Vilnius: Pradai.

Beyleveld, D. (1979). '*Identifying, Explaining, and Predicting Deterrence*', In *British Journal of Criminology*, 19: 205-224.

Blumler, J. and Katz, E. (1974). *The Uses of Communications*. Beverly Hills, CA: Sage.

Blumstein, A. and Beck, A.J. (2005). Reentry as a transient state between liberty and recommitment. In: Travis J., and Visher C. (eds) *Prisoner Reentry and Crime in America*. New York: Cambridge University Press, 50-79.

Bobo, L. and Johnson, D. (2004). A taste for punishment: black and white Americans' views on the death penalty and the war on drugs. *Du Bois Review* 1 (1): 151-180.

Boda, Z. and Szabó, G. (2010). *Media Visions on Crime and Criminal Justice*. Eurojustis Working Paper.

Bohm, R. M. (1999). Deathquest: An introduction to the theory and practice of capital punishment in the United States. Cincinnati, OH: Anderson Publishing Company.

Bonoli, G. (1997). Classifying Welfare States: a Two-dimension Approach' *Journal of Social Policy* 26 (3): 351-72.

Borbíró, A. (2009). Three strikes and You're Out' Magyarországon – kriminálpolitikai racionalitás vagy szimbolikus jogalkotás? *Acta Facultatis Politico-iuridicae Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae*. 45: 165-179.

Borg, M. (1997). The south subculture of punitiveness? Regional variation in support for capital punishment. Journal of Research in Crime and Delinquency, 34 , pp. 25-45.

Boswell, C. (2009). *The Political Uses of Expert Knowledge: Immigration Policy and Social Research*, Cambridge University Press, Cambridge.

Bottoms, A. (2002). '*Compliance and Community Penalties*', In A. E. Bottoms, L. Gelsthorpe and S. Rex (eds), *Community Penalties*, Cullompton: Willan.

Bottoms, A. (2004). 'Empirical research relevant to sentencing frameworks'. In A. Bottoms, S. Rex and G. Robinson (eds), *Alternatives to Prison*. Cullompton: Willan Publishing.

Bottoms, A. and J. Tankebe (2011). '*Beyond Procedural Justice: a Dialogic Approach to Legitimacy in Criminal Justice*', In The Journal of Criminal Law and Criminology, 102:1, 101-148.

Bottoms, A. E. (2002). Compliance and Community Penalties, in T. Bottoms-L. Gelsthorpe-S. REX (eds), Community Penalties, Cullompton,

Bourdieu, P. (1991). *Language and Symbolic Power*. Oxford: Polity Press.

Bourdieu, Пьер. (1993). Социология политики. Москва: Socio-Logos.

Bourdieu, Пьер. (2002). *О телевидении и журналистике*. Москва: Фонд научных исследований „Прагматика культуры", Институт экспериментальной социологии.

Boyd-Barrett, O. and Braham, P. (1995). *Media, Knowledge and Power*. London, New York: Routledge.

Boyd-Barrett, O. and Newbold, C. (1995). *Approaches to Media: a Reader*. London: Arnold.

Bradford, B. and Jackson, J. (2011). 'When trust is lost: The British and their Police after the Tottenham Riots', *Books and ideas, available at* http://www.booksandideas.net/IMG/pdf/20111107_when-trust-is-lost.pdf

Bradford, B. and Jackson, J. (2010). *Trust and confidence in the police: A conceptual review*. National Policing Improvement Agency Wiki, available at SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1684508.

Bradford, B., Jackson, J. and Stanko, E. (2009). Contact and Confidence: Revisiting the Impact of Public Encounters with the Police. *Policing & Society*, 19(1): 20-46.

Bradford, B., Stanko, E. and Jackson, J. (2009). Using Research to Inform Policy: The Role of Public Attitude Surveys in Understanding Public Confidence and Police Contact, Policing: A Journal of Policy and Practice.

Bridges, L. (2012). 'Four days in August: the UK riots', *Race & Class*, 54(1): 1-12.

Brillon, Y. (1988). Punitiveness, status and ideology in three Canadian provinces. In N. Walker, & M. Hough (Eds.), *Public attitude to sentencing: surveys from five countries*. Aldershot, UK: Gower.

Buckler, K., Davila, M., and Salinas, P.R. (2008). Racial differences in public support for the death penalty: can racist sentiment and core values explain the racial divide? *American Journal of Criminal Justice* 33: 151-165.

Bures, O. (2010). 'Eurojust's Fledgling Counterterrorism Role', *Journal of Contemporary European Research*, Vol. 6, No. 2, pp. 236-256.

Burke, R. H. (1998). The Socio-Political Context of Zero Tolerance Policing Strategies. In Policing: An International Journal of Police Strategies& Management, 21 (4), pp. 666-682.

Busuioc, M. (2009). 'Accountability, control and independence: The case of European agencies', *European Law Journal*, Vol. 15, No. 5, pp. 599-615.

Busuioc, M. (2010). *The Accountability of European Agencies: Legal Provisions and Ongoing Practices*, Delft: Eburon Academic Publishers.

Busuioc, M. and D. Curtin (2011). *The EU Internal Security Strategy, the EU Policy Cycle and the Role of (AFSJ) Agencies: Promises, Perils and Pre-requisites*, Study for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

Callanan, V. and Rosenberger, J. (2011). Media and public perceptions of the police: the impact of race and personal experience. *Policing & Society*, 21(2): 167-189.

Cameron, S. (1988). '*The Economics of Crime and Deterrence: A Survey of Theory and Evidence*', In Kylos, 41:2, 301-323.

Canovan, M. (1981). *Populism*. London: Junction Books.

Carlsmith, K. M. and Darley, J. M. (2008). Psychological aspects of retributive justice. *Advances in Experimental Social Psychology* 40: 193-236.

Carrapico, H. and F. Trauner (2012). *Europol's contribution to a European Union strategy on organised crime: exploring the potential of experimentalist governance*, Paper presented at the UACES conference Passau, 3-5 September.

Carrera, S. & M. Merlino (2009). *Undocumented Immigrants and Rights in the EU: Addressing the Gap between Social Science Research and Policy-making in the Stockholm Programme?* CEPS Liberty and Security in Europe Series, December 2009.

Carrera, S. and E. Guild (2010). *Joint Operation RABIT 2010' – FRONTEX Assistance to Greece's Border with Turkey: Revealing the Deficiencies of Europe's Dublin Asylum System*, CEPS Liberty and Security Series, November.

Carrera, S. and E. Guild (2011). *Towards an Internal (In) security Strategy for the EU?*, CEPS Liberty and Security in Europe Series, CEPS, Brussels, January.

Castles, F. G. and Mitchell, D. (1993). Worlds of Welfare and Families of Nations. In: Castles FG (ed.) *Families of Nations: Patterns of Public Policy in Western Democracies*. Aldershot: Dartmouth Publishing Company.

Cavadino, M., and Dignan, J. (2006). *Penal Systems: A Comparative Approach*. London: Sage Publications.

Cavadino, M., and Dignan, J. (2013). Political economy and penal systems. In: Body-Gendrot S., Hough M., Kereszi K., Levy R. and Snacken S. (eds) *European Handbook of Criminology*. London: Routledge.

Cavender, G. (2004). Media and crime policy. A reconsideration of David Garland's The culture of control. *Punishment & Society*, 6(3): 335-348.

Ceobanu, A. (2011). Usual suspects? Public views about immigrants' impact on crime in European countries. *International Journal of Comparative Sociology*, February 2011, vol. 52, 1-2: 14-131.

Chapman, B., Mirrlees-Black, C. and Brawn, C. (2002). *Improving public attitudes to the criminal justice system: the impact of information. Home Office Research Study No. 245*. London: Home Office.

Chermark, S. And Weiss, A. (2005). Maintaining legitimacy using external communication strategies: An analysis of police-media relations. *Journal of Criminal Justice*, 33(5): 501-512.

Chevigny, P. (2003). The populism of fear: Politics of Crime in the Americas. Punishment & Society Vol. 5(1), pp. 77-96.

Chibnall, S. (1977). *Law-and-order news: an analysis of crime reporting in the British press*. London: Tavistock Publishing.

Chiricos, T., Welch, K. and Gertz, M. (2004). Racial typification of crime and support for punitive measures. *Journal of Criminology 42 (2)*: 359-389.

Christie, N. (1977). 'Conflicts as Property' *British Journal of Criminology* (1): 1-15.

Christie, N. (1981). *Limits to Pain: the Role of Punishment in Penal Policy*. Eugene: Wipf and Stock Publishers.

Christie, N. (1999). *Nusikaltimų kontrolė kaip pramonė: į Gulagą – Vakarų stiliumi*. Vilnius: Eugrimas.

Cima, R. (2011). '*L'analisi dell'efficienza della giustizia civile: l'approccio della frontiera stocastica*', in Polena 1: 9-25.

Civitas (2010). Too Many People in Prison? How do we Compare with Europe? Available from: http://www.civitas.org.uk/data/prisonTooMany.php. Accessed on 13 August, 2012.

Clark, R. V. and D. B. Cornish (1985). '*Modelling Offenders' Decisions*', in M. Tonry and N. Morris (eds.), Crime and Justice, Chicago: Chicago University Press.

Cochran, J. K. & Chamlin, M. B. (2006). The enduring racial divide in death penalty support. Journal of Criminal Justice, 34, pp. 85-99.

Cohen, S. (2002). Folk Devils and Moral Panics. 3rd Edition. London: Paladin.

Cohen, S. (1987). *Folk Devils and Moral Panics. The Creation of the Mods and Rockers*. Oxford: Blackwell Publishers.

Cohen, S. (2002). *Folk Devils and Moral Panics*. 3rd Edition. London: Paladin.

Cohen, S. (2005). *Visions of Social Control: Crime, Punishment and Classification*. Cambridge, Malden: Polity Press.

Cohen, S. (2010). 'The Political Agenda of Moral Panic Theory: Constructing A Sociology of Importance' Moral *Panics in the Contemporary World Conference*. Accessed via internet: http://www.youtube.com/watch?v=xV5-HFqY0PY&feature=youtube_gdata_player

Cohen, S. and Young, J. (1981). *The Manufacture of News.* London: Constable.

Collman, A. (2003). Oxford dictionary of Psychology. Oxford university press, p. 63.

Compton, James R. (2004). *The Integrated News Spectacle: a Political Economy of Cultural Performance.* New York: Peter Lang.

Cook, P. J. (1977). 'Punishment and Crime: A Critique of Current Findings concerning the Preventive Effects of Punishment'. In *Law and Contemporary Problems*, 41(1): 164-204.

Cook, P. J. (1980). '*Research in Criminal Deterrence: Laying the Groundwork for the Second Decade*', In Crime and Justice, 2: 211-268.

Coolsaet, R. (2010). 'EU Counterterrorism strategy: Value-added or chimera?' *International Affairs*, Vol. 86, No. 4, pp. 857-873.

Corrado, D. and M. Leonardo (2007). '*Cosi' l'efficienza entra in tribunale*', in La voce.info.

Costelloe, M. T., Chiricos, T., and Gertz, M. (2009). Punitive attitudes towards criminals: exploring the relevance of crime salience and economic insecurity. *Punishment and Society 11 (25):* 25-49.

Crank, J. P., Giacomazzi, A., Heck, C. (2003). Fear of crime in a non-urban setting. In Journal of Criminal Justice, 31, pp. 249-263.

Cullen, F. T., J. P. Wright, K. R. Blevins. *Taking Stock. The Status of Criminological Theory.* New Brunswick: Transaction Publishers.

Curtin, D. (2007). "Holding (Quasi-)Autonomous EU Administrative Actors to Public Account", *European Law Journal*, Vol. 13, No. 4, July, pp. 523-541.

Davila, M. A., Harley, D. J., Bucker K. & Wilson S. (2011). Personal and Vicarious Experience with the Criminal Justice System as a Predictor of Punitive Sentencing Attitudes // Am J Crim Just 6, pp. 408-420.

Davis, A. (2006). Media effects and the question of the rational audience: lessons from the financial markets. *Media, Culture and Society*, 28(4): 603-625.

Davis, A. (2007). *The Mediation of Power: a Critical Introduction.* London, New York: Routledge.

De Jonge, B. (2005). *Eurojust and human trafficking: The state of affairs*, University of Amsterdam and Eurojust.

De Keijser, J. W., Van Koppen, P. J., and Elffers, H. (2007). Bridging the gap between judges and the public? A multi-method study. *Journal of Experimental Criminology,* 3(2):131-161.

De Moor, A. and G. Vermeulen (2012). 'The Europol Council Decision: Transforming Europol into an Agency of the European Union', *Common Market Law Review*, 47, pp. 1089-1121.

De Wever, W. (2011). *Crime and deviance in the EU. Key findings from EU funded social sciences and humanities research projects*, European Commission, Directorate-General for Research and Innovation, Socio-economic Sciences and Humanities, Brussels.

Deacon, D., Pickering, M., Golding, P. and Murdock, G. (1999). *Researching Communications: a Practical Guide to Methods in Media and Cultural Analysis.* London: Arnold.

Dearing, J. W. and Rogers, E. (1996). *Agenda-Setting.* Thousand Oaks, London, New Delhi: Sage Publications.

Disley et al. (2012). *Evaluation of the Implementation of the Europol Council Decision and of Europol's Activities*, RAND Technical Report, prepared for the Europol Management Board.

Ditton, J., Farrall, S. (2000). The Fear of Crime. Ashgate: Aldershot.

Ditton, J., Bannister, J., Gilchrist, E., Farrall, S. (1999). Afraid or Angry? Recalibrating the 'Fear' of Crime. In International Review of Victimology,6, pp. 83-89.

Dobryninas, A. (2001). Virtuali nusikaltimų tikrovė. Vilnius: Eugrimas.

Dowler, K. (2003). Media Consumption And Public Attitudes Toward Crime And Justice: The Relationship Between Fear Of Crime, Punitive Attitudes, And Perceived Police Effectiveness. Journal of Criminal Justice and Popular Culture, 10(2), pp. 109-126.

Dowler, K. (2002). Media influence on citizen attitudes toward police effectiveness. *Policing & Society,* 12(3): 227-238.

Dowler, K. and Zawilski, V. (2007). Public perceptions of police misconduct and discrimination: Examining the impact of media consumption. *Journal of Criminal Justice,* 35(2): 193-203.

Earle, T. and Cvetkovich, G. (1995). *Social trust: toward a cosmopolitan society.* Westport, CT: Prager.

Egge, M., Strype, J., Thomassen, G. (2012). Trust in the Police after July 22nd. Norwegian Police University College. Available at: http://brage.bibsys.no/politihs/bitstream/URN:NBN:no-bibsys_brage_30816/1/Trust%20in%20the%20police%20after%20July%2022nd.pdf

Elffers, H., Verboon, P. & Huisman, W. (2006). Managing and maintaining compliance. The Hague: Boom Legal Publishers.

Elickson, R. C. (1991). *Order without law.* Cambridge (MA): Harvard University Press.

Enzmann, D., Marshall, I., Killias, M., Junger-Tas, J., Steketee, M. & Gruszczynska, B. (2010). Self-reported youth delinquency in Europe and beyond: First results of the Second International Self-Report Delinquency Study in the context of police and victimisation data. *European Journal of Criminology* 7(2): 159-183

Ericson, R. V., Baranek, P. M. and Chan, J. B. L. (1987). *Visualising Deviance.* Milton Keynes: Open University Press.

Ericson, R. V., Baranek, P. M., Chan, J. B. L. (1991). *Representing Order.* Milton Keynes: Open University Press.

Ericson, R., Baranek, P. and Chan, J. (1991). Representing Order. Milton Keynes: Open University Press.

Eschholz, S., Blackwell, B., Gertz, M. and Chiricos, T. (2002). Race and attitudes toward the police: Assessing the effects of watching 'reality' police programmes. *Journal of Criminal Justice,* 30(4): 327-341.

Esping-Andersen, G (1990). *The Three Worlds of Welfare Capitalism.* Oxford: Polity Press.

Farge, A. (1994). Subversive Words: Public Opinion in Eighteenth-century France. Translated by R. Morris. University Park: Pennsylvania State University Press.

Farrall, S., Bannister, J., Ditton, J., Gilchrist, E. (1997). Questioning the Measurement of the 'Fear of Crime'. In the British Journal of Criminology, 37 (4), pp. 658-679.

Fattah, E. A. (1983). '*A Critique of Deterrence Research with Particular Reference to the Economic Approach*'. In Canadian Journal of Criminology, 25: 79-90.

Ferell, J., Hayward, K. and Young, J. (2008). *Cultural Criminology: an Invitation.* London, Thousand Oaks, New Delhi, Singapore: Sage Publications.

Ferrell, J., Sanders C. R. (1995). Cultural Criminology. Boston: Norhteastern University Press.

Ferrera, M. (1996). The 'Southern' Model of Welfare in Social Europe *Journal of European Social Policy* 6 (1): 17-37.

Fishman, M. (1978). 'Crime Waves as Ideology' *Social Problems* (25): 531-43.

Fitzgerald, J., Curtis, K. & Corliss, C. (2012). Anxious Publics: Worries about Crime and Immigration. *Comparative Political Studies,* April 2012; vol. 45, 4: 477-506.

Fitzgerald, M., Hough, M. et al. (2002). Policing for London. Cullompton: Willan Publishing.

Foucault, M. (1998). *Diskurso tvarka.* Vilnius: Baltos lankos.

Fowler, R. (1991). *Language in the News: Discourse and Ideology in the Press.* London: Routledge.

FRA - European Union Agency for Fundamental Rights (2009). *EU-MIDIS. European Union Minorities and Discrimination Survey. Main Results Report.* Conference Edition, FRA, Vienna.

Frost, N. (2008). The mismeasure of punishment: alternative measures of punitiveness and their (substantial) consequences. *Punishment and Society* 10(3): 277-300.

Galev, T., Yordanova, M., Results of the pilot surveys. Overview: Trust in justice, procedural and distributive fairness and fear of crime. In Hough, M., Sato, M. (eds.) (2011). Trust in justice: why it is important for criminal policy, and how it can be measured: final report of the Euro-Justis project. Helsinki, European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI).

Garland, D. (2001). *The culture of control. Crime and Social Order in Contemporary Society.* Oxford: Oxford University Press.

Gault, B. A., & Sabini, J. (2000). The roles of empathy, anger, and gender in predicting altitudes toward punitive, reparative, and preventative public policies. Cognition and Emotion, 14(4), pp. 495– 520.

Gauntlett, D. (1998). Ten Things Wrong with the Effects Model. In Dickinson, R.; Havindranath, R. and Linne, O. Eds. *Approaches to Audiences: A Reader.* London: Arnold.

Gauntlett, D. (2001). The worrying influence of 'media effects' studies. In: Greer. C. Ed. (2010). *Crime and Media. A reader.* Routledge: London: 393-402.

Geuss, R. (2001). *History and Illusion in Politics*, Cambridge University Press, Cambridge.

GHK (2012). Study on the amendment of the Council Decision 2005/681/JHA setting up CEPOL activity – Final Report.

Giddens, A. (1991). Modernity and Self-Identity. Self and Society in the Late Modern Age. Cambridge: Polity.

Gilmour, S. (2008). Why we trussed the police: police governance and the problem of trust, International Journal Of Police Science & Management, 10 (1), pp. 51-64.

Girling, E., Loader, I. and Sparks, R. (2000). *Crime and Social Control in Middle England: Questions of Order in an English Town.* London: Routledge.

Glassner, B. (1999). The Culture of Fear. New York: Basic Books.

Gollwitzer, M., Bucklein, K. (2007). Are „We" more Punitive than 'ME'? Self-Construal Styles, Justice-Related Attitudes, and Punitive Judgements // Soc Just Res.

Gómez-Jara Díez, C. (2005). Constitución europea y Derecho penal: ¿Hacia un Derecho penal federal europeo? In Bacigalupo, S. & Cancio Meliá, M. (Coords.). *Derecho penal y Política transnacional*, Atelier, Barcelona: 153-20.

Goode, E. and Ben-Yehuda N. (2009). *Moral Panics: the Social Construction of Deviance.* England: Wiley – Blackwell Publications.

Goudriaan, H., Lynch, J. & Nieuwbeerta, P. (2004). Reporting to the Police in Western Nations: A Theoretical Analysis of the Effects of Social Context, *Justice Quarterly*, Vol. 21, No. 4: 933-969.

Grant, C. (2007). *Crime and Punishment in Contemporary Culture.* London, New York: Routledge.

Grasmick, H. G., & McGill, A. L. (1994). Religion, attributional style, and punitiveness toward juvenile offenders. Criminology, 32, pp. 23 –46

Grasmick, H. G., Cochran, J. K., Bursik, R. J. & Kimpel, M. (1993). Religion, punitive justice, and support for the death penalty. Justice Quarterly, 10, pp. 289-314.

Greenberg, D. F. and West, V. (2001). State prison populations and their growth: 1971-1991. *Criminology* 39(3): 615-653.

Greer, C. (2011). *Sex Crime and the Media: Sex Offending and the Press in a Divided Society.* London, New York: Routledge.

Greer, C. and McLaughlin, E. (2011). 'Trial by media': Policing, the 24-7 news media sphere and the 'politics of outrage'. *Theoretical Criminology,* 15(1): 23-46.

Gripsrud, J. (2002). *Understanding Media Culture.* London: Arnold.

Groenleer, M. (2009). *The Autonomy of European Union Agencies: A Comparative Study of Institutional Development*, Delft: Eburon Academic Publishers.

Guild, E. et al. (2011). *Implementation of the EU Charter of Fundamental Rights and its Impact on EU Home Affairs Agencies*, Study prepared for the LIBE Committee of the European Parliament, Brussels.

Habermas, J. (1994). *Three Normative Models of Democracy*, Constellations Vol. I, No. 1, p. 7-8.

Hagin, D. S. (1988). '*Criminal Deterrence at the Outset of the Twenty-First Century*', In Crime and Justice, 23: 1-43.

Hale, C. (1996). Fear of Crime: a Review of the Literature. In International Review of Victimology, 4, pp. 79-150.

Halim, S., Stiles, B. L. (2001). Differential support for police use of force, the death penalty, and perceived harshness of the courts: effects of race, gender, and region. Criminal Justice and Behavior, 28, pp. 3-23.

Hall, S. (1997). *Representation: Cultural Representations and Signifying Practices.* London, Thousand Oaks, New Delhi: Sage Publications.

Hanak, G. and V. Hofinger (2005). *Police Science and Research in the EU*, CEPOL and the Institute for the Sociology of Law and Criminology, Vienna.

Harrendorf, S. (2012). Offence Definitions in the European Sourcebook of Crime and Criminal Justice Statistics and Their Influence on Data Quality and Comparability, *European Journal on Criminal Policy and Research* 18: 23-53.

Harrendorf, S., Heiskanen, M. & Malby, S. (Eds.) (2010). *International Statistics on Crime and Justice*, HEUNI-UNODC, Helsinki.

Heiskanen, M. (2010). Trends in Police Recorded Crime. In Harrendorf, S.; Heiskanen, M. & Malby, S. (Eds.) (2010). *International Statistics on Crime and Justice*, HEUNI-UNODC, Helsinki: 21-47.

Hinds, L. (2005). Crime control in Western countries: 1970 to 2000. In: Pratt, J., Brown, D., Brown, M., Hallsworth, S., and Morrison, W. (eds) *The New Punitiveness: Trends, Theories, Perspectives.* Portland/Oregon: Willan Publishing, 47-65.

Hinds, L. B. (2005). 'Objectivity in Broadcast Journalism' In: Steven R. Knowlton, Karen L. Freeman (ed.) *Fair & Balanced: a History of Journalistic Objectivity.* Northport: Vision Press.

Hogg, R., Brown, D. (1998). Rethinking Law and Order. Annandale: Pluto Press.

Horii, S. (2012). 'It is more than just about training: The effect of Frontex border guard training', Paper presented at the UACES Conference, Passau, 3-5 September.

Hough, M. (1996). People talking about punishment. *Howard Journal* 35(3): 191-214.

Hough, M. (2004). Worry about crime: mental events or mental states? *International Journal of Social* Research Methodology 7(2): 173-176.

Hough, M. and Moxon, D. (1985). Dealing with offenders: public opinion and the views of victims. *Howard Journal* 24: 160-175.

Hough, M. and Roberts, J. V. (1998). *Attitudes to Punishment: Findings from the 1996 British Crime Survey. Home Office Research Study No 179.* London: Home Office.

Hough, M. and Roberts, J. V. (1999). Sentencing Trends in Britain: Public Knowledge and Public Opinion. *Punishment and Society* 1(1): 11-26.

Hough, M., Lewis, H. and Walker, N. (1988). Factors associated with 'punitiveness' in England and Wales. In N. Walker, & M. Hough (Eds.), *Public attitude to sentencing: surveys from five countries.* Aldershot, UK: Gower.

Hough, M., Roberts, J. V., Jacobson, J., Bredee, A. and Moon, N. (2008). *Attitudes to the sentencing of offences involving death by driving. Sentencing Advisory Panel Report No. 5.* London: Sentencing Advisory Panel. Available from: http://www.icpr.org.uk/media/10375/Attitudes%20to%20sentencing%20of%20Death%20Driving%20offences.pdf. Accessed on 14 August, 2012.

Hough, M., J. Jackson, B. Bradford, A. Myhill and P. Quinton (2010). '*Procedural Justice, Trust, and Institutional Legitimacy*', in Policing, 1-8.

Hough, M. & Sato, M. (eds.) (2011). *Trust in Justice: Why it is important for criminal policy, and how it can be measured. Final report of the Euro-Justis project*, HEUNI, Helsinki.

Hough, M. (2012). 'Researching trust in the police and trust in justice: A UK perspective', *Policing and Society. 22,* 3, 332-345.

Hough, M. and Roberts, J. V. (2012). Public Opinion, Crime, and Criminal Justice. In: R. Morgan, M. Maguire and R. Reiner (eds.) Oxford Handbook of Criminology. Fifth Edition. Oxford: Oxford University Press.

Hough, M., Jackson, J., Bradford, B., Myhill, A. and Quinton, P. (2010). 'Procedural Justice, Trust, and Institutional Legitimacy', *Policing. Vol 4,* No 3. Pps 203-210.

Howitt, D. (1998). *Crime, the media, and the law.* Wiley: West Sussex.

Hunt, P., Kilmer, B & Rubin, J. (2011). *Development of a European Crime Report. Improving Safety and Justice with Existing Crime and Criminal Justice Data,* RAND Corporation. Available online at http://www.rand.org/pubs/technical_reports/TR936.html (last accessed on 18 July 2012).

Ipsos MORI (2007). London residents' attitudes to local health services and patient choice. Research survey conducted for NHS. London: Ipsos MORI

Ipsos MORI (2009). Experiences of the Criminal Justice System - Victims and Witnesses of Crime. London: MORI

Jackson, J. B., Bradford, M. Hough, A. Myhill, P. Quinton and T. R. Tyler (under review), '*Why do People Comply with the Law? Legitimacy and the Influence of Legal Institution*'.

Jackson, J. and Bradford, B. (2009). Crime, Policing and Social Order: On the Expressive Nature of Public Confidence in Policing. *British Journal of Sociology,* 60(3): 493-521.

Jackson, J. and Bradford, B. (2010). What is Trust and Confidence in the Police? *Policing: A Journal of Policy and Practice,* 43(): 241-248.

Jackson, J. and Sunshine, J. (2007). Public confidence in policing. A New-Durkheimian Perspective. *British Journal of Criminology,* 47(2): 214-223

Jackson, J., Bradford, B., Stanko, E. and Hohl, K. (2012). *Just Authority? Trust in the police in England and Wales,* Oxon: Routledge.

Jackson, J., Bradford, B., Hohl, K. and Farrall, S. (2009). 'Does the Fear of Crime Erode Public Confidence in Policing?' *Policing: A Journal of Policy and Practice* 3(1): 100-111.

Jackson, J., Bradford, B., Hough, M, and Murray, K. (2012a). 'Compliance with the law and policing by consent: notes on police and legal legitimacy', in, (eds Crawford, A and Hucklesby, A.) *Legitimacy and Compliance in Criminal Justice.* London: Routledge.

Jackson, J., Bradford, B., Hough, M, Myhill, A., Quinton, P. and Tyler, T. (2012b). 'Why do People Comply with the Law? Legitimacy and the Influence of Legal Institutions' British Journal of Criminology**,** Advance access published May 2012

Jackson, J., Bradford, B., Hough, M., Kuha, J., Stares, S. R., Widdop, S., Fitzgerald, R., Yordanova, M. and Galev, T. (2011). 'Developing European Indicators of Trust in Justice', *European Journal of Criminology. Vol 8***.** No. 4 pps 267-286.

Jackson, J., Hough, M., Bradford, B., Pooler, T., Hohl, K., Kouha, J. (2011). Trust in Justice: Topline Results from Round 5 of the European Social Survey. ESS Topline Results Series (1)

Jackson, J., Kuha, J., Testing scales of public trust and police legitimacy. In Hough, M., Sato, M. (eds.) (2011). Trust in justice: why it is important for criminal policy, and how it can be measured: final report of the Euro-Justis project. Helsinki, European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI).

Jakubowicz, K. (1998). 'Media and democracy' *Media and Democracy.* Strasbourg: Council of Europe Publishing: 9-30.

Jaschke, H. et al (2007). *Perspectives of Police Science in Europe – Final Report,* Project Group on a European Approach to Police Science.

Jeandesboz, J. and F. Ragazzi (2010). *Review of security measures in the Research Framework Programme,* Study for the Directorate-General for Internal Policies of the European Parliament, Brussels.

Jehle, J. (2012). How to improve the international comparability of crime statistics, in Joutsen, M. (Ed.), *New Types of Crime. Proceedings of the International Seminar held in connection with HEUNI's thirtieth anniversary, Helsinki 20 October 2011,* HEUNI publication no. 74, Helsinki 2012: 134-138. Available at http://www.heuni.fi/Etusivu/Publications/ (last accessed on 18 July 2012).

Jeney, P. (2012). *The Future of Eurojust,* Study for the Directorate General for Internal Policies of the European Parliament, Brussels.

Jewkes, Y. (2004). *Media and Crime.* Sage: London.

Jewkes, Y. (2006). Media & Crime. London, Thousand Oaks, New Delhi: Sage publications.

Jewkes, Y. (2011). *Media and Crime: Key Approaches to Criminology.* 2nd edition. London, Thousand Oaks, New Delhi, Singapore: Sage Publications.

Johnsen, J. and Mathiesen, T. J. (1992). 'A War in the Name of Freedom?' *The Nordicom Review of Nordic Mass Communication Research* (2): 3-18.

Johnson, D. (2009). Anger about crime and support for punitive criminal justice policies. Punishment & Society, 11(1), pp. 51 – 66.

Jokinen, A., Ruuskanen, E., Yordanova, M., Markov, D. & Ilcheva, M. eds. (2009). JUSTIS project working papers review of need: indicators of public confidence in criminal justice for policy assessment. Helsinki, European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI).

Jones, C., Weatherbun, D. & McFarlane, K. (2008). Public confidence in the New South Wales criminal justice system. Contemporary issues in crime and justice no. 118

Junger-Tas, J. (2010). The Significance of the International Self-report Delinquency Study (ISRD). *European Journal on Criminal Policy and Research* 16: 71-87.

Junger-Tas, J., Marshall, I., Enzmann, D., Killias, M., Steketee, M. & Gruszczynska, B. (Eds.) (2010). *Juvenile Delinquency in Europe and Beyond. Results of the Second International Self-Report Delinquency Study,* Springer, Berlin.

Junger-Tas, J., Terlouw, G. & Klein, M. (Eds.) (1994). *Delinquent Behaviour Among Young People in the Western World: First Results of the International Self-Report Delinquency Study.* Kluger, Amsterdam.

Kääriäinen, J. & Sirén, R (2011). Trust in the police, generalized trust and reporting crime. *European Journal of Criminology,* January 2011; vol. 8, 1: 65-81.

Kappeler, V. A., Blumberg, M. and Potter, G. W. (1993). *The Mythology of Crime and Criminal Justice.* Illinois: Waveland Press.

Katz, J. (1987). 'What Makes Crime "News"?' *Media, Culture and Society* (9): 47-75.

Keil, T. J., & Vito, G. F. (1991). Fear of crime and attitudes toward capital punishment: a structural equations model. Justice Quarterly, 8, pp. 447-464.

Kelley, J. & Braithwaite, J. (1990). Public opinion and the death penalty in Australia. Justice Quarterly, 7, pp. 529-563.

King, A. & Maruna, S. (2009). Is a conservative just a liberal who has been mugged?: Exploring the ori-

gins of punitive views. *Punishment and Society* 11 (2): 147-169.

Klimke, D., Sack, F. and Schlepper, C. (2011). Stopping the 'punitive turn' at the German Border. In: Helmut K., and Shea E. (eds) *Punitivity International Developments Vol. 1: Punitiveness – a Global Phenomenon?* Bochum: Universitätsverlag Brockmeyer, 289-342.

Kónya, I. (2011). A három csapás bíró szemmel. *Magyar Jog*, 58(3): 129-135.

Koženiauskienė, R. (2001). *Retorija: iškalbos stilistika.* Vilnius: Mokslo ir enciklopedijų leidybos institutas.

Kroneberg, C., Heintze, I. & Mehlkop, G. (2010). Interplay of moral norms and instrumental incentives in crime causation. Criminology, 48, pp. 259 - 294.

Kuhn, A. (1992). Attitudes towards punishment. Understanding Crime Experiences of Crime and Crime Control. Acts of the International Conference Rome, pp. 18-20

Kury, H. (2008). Fear of Crime – Punitivity: New Developments in Theory and Research. Bochum: Universitätsverlag Brockmeyer.

Kury, H. and Shea, E. (2011). Punitiveness – an introduction. In: Helmut K, and Shea E (eds) *Punitivity International Developments Vol. 1: Punitiveness – a Global Phenomenon?* Bochum: Universitätsverlag Brockmeyer, 9-23.

Lacey, N. (2008). *The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies.* Cambridge: Cambridge University Press.

Lacey, N. (2000). *Narrative and Genre: Key Concepts in Media Studies.* Basingstoke, New York: Palgrave.

Lappi-Seppälä, T. (2008a). Trust, Welfare and political culture: explaining differences in national penal policies. In M. Tontry (Ed.), *Crime and justice: a review of research,* vol. 37. Chicago, US: University of Chicago, 313-387.

Lappi-Seppälä, T. (2008b). Explaining national differences in the use of imprisonment. *Japanese Journal of Sociological Criminology* 33: 93-121.

Lasley, L. (1994). The impact of the Rodney King incident on citizen attitudes toward police. *Policing & Society,* 3(4): 245-255.

Lee, M. (2007). *Inventing Fear of Crime: Criminology and the Politics of Anxiety.* Cullompton: Willan Publishing.

Leibfried, S. (1992). Towards a European welfare state? On integrating poverty regimes into the European community. In: Ferge, Z., and Kolberg, J.E. (eds), *Social Policy in a Changing Europe.* Frankfurt am Main: Campus Verlag.

Leishman, F. and Mason, P. (2003). *Policing and the Media: Facts, Fictions and Factions.* Cullompton: Willan Publishing.

Lévay, M. (2012). Penal Policy, Crime and Political Change, In: Selih A. and Zavrsnik A. (eds.): *Crime and Transition in Central and Eastern Europe*, Berlin: Springer: 117-153.

Lewis, C. (2012). Crime and Justice Statistics Collected by International Agencies. *European Journal on Criminal Policy and Research* 18: 5-21.

Lind, E. A. & Tyler, T. R. (1988). The social psychology of procedural justice. New York, Plenum Press.

Livingstone, S. (1996). The scope and context of media effects research. In: Curran, J. and Gurevitch, M.: *Mass media and society*, 2nd Edition. London: Edward Arnold: 305-324.

Loader, I. (2006). Fall of the Platonic Guardians. *British Journal of Criminology,* 46(4): 561-586.

Loader, I. and Mulcahy, A. (2003). *Policing and the Condition of England: Memory, Politics and Culture.* Oxford: Oxford University Press.

Luhmann, N. (1979). Trust and power: two works. Chichester, Wiley.

Luhmann, N., Peebles, W. (1988). Proceedings of the seventh Topical Conference on High Temperature Plasma Diagnostics: Napa, California, 13-17 March 1988. New York, American Institute of Physics.

Luskin, R., Fishkin, J.S. and Jowell, R. (2002). Considered opinions: deliberative polling in Britain. *British Journal of Political Science,* 32:455-487.

Madriz, E. (1997). Nothing Bad Happens to Good Girls: Fear of Crime in Women's Lives. Berkeley: University of California Press.

Malby, S. (2012). *Data collection on [new] forms and manifestations of crime,* in Joutsen, M. (Ed.), *New Types of Crime. Proceedings of the International Seminar held in connection with HEUNI's thirtieth anniversary, Helsinki 20 October 2011,* HEUNI publication no. 74, Helsinki 2012: 120-133. Available at http://www.heuni.fi/Etusivu/Publications/ (last accessed on 18 July 2012).

Manning, P. (2003). *Policing Contingencies.* Chicago: The University of Chicago Press.

Maruana, S., King, A. (2009). One a Criminal, Always a Criminal?: 'Redeemability' and the Psychology of Punitive Public Attitudes // Eur J Crim Policy Res15, pp. 7-24

Mason, P. (ed.) (2003). *Criminal Visions: Media representations of crime and justice.* Cullompton, Portland: Willan Publishing.

Mathiesen, T. (1987). 'The Eagle and the Sun: on panoptical systems and mass media in modern society' in John Lowman, Robert J. Menzies and T. S. Palys (ed.) *Transcarceration. Essays in the Sociology of Social Control.* Aldershot: Gower: 59-75.

Mathiesen, T. (2001). 'On Globalization of Control: Towards an Integrated Surveillance System in Europe' NSfK's 43rd Research Seminar Report *Social Change and Crime in the Scandinavian and Baltic Region*: 4-34.

Mawby, R. (2002). *Policing images: policing, communication and legitimacy.* Cullompton: Willan Publishing.

Mawby, R. (2010). Police corporate communication, crime reporting and the shaping of policing news. *Policing & Society,* 20(1): 124-139.

McCombs, M. E. and Shaw, D. L. (1972). 'The Agenda-Setting Function of Mass Media' *Public Opinion Quarterly* (2): 176–87.

McLaughlin, E., Muncie, J. (2006). The Sage Dictionary of Criminology. London, Thousand Oaks, New Delhi: Sage Publications.

McQuail, D. (1996). *Mass Communication Theory: an Introduction.* London, Thousand Oaks: Sage Publications.

Meier, R. F. & Geis, G. (1997). Victimless crime? Prostitution, drugs, homosexuality, and abortion. Los Angeles, CA: Roxbury Publishing Company.

Millares, J. M. (2009). Religious Roots Of Punitive Attitudes, http://dspace.uta.edu/bitstream/handle/10106/1756/Millares_uta_2502M_10335.pdf?sequence=1

Miller, J., Davies, R., Henderson, N., Markovic, J. and Ortiz, C. (2004). *Public opinion of the police: the influence of friends, family and new media.* New York: Vera Foundation.

Moon, M. M., Wright, J. P., Cullen, F. T., & Pealer, J. A. (2000). Putting kids to death: Specifying public support for juvenile capital punishment. Justice Quarterly, 17, pp. 663-684.

Morrell, G., Scott, S., McNeish, D. and Webster, S. (2011). 'The August riots in England. Understanding the involvement of young people', *Natcen report*, available at http://www.natcen.ac.uk/media/769712/the%20august%20riots%20in%20england%20web.pdf

Muncie, J. (2006). 'Deviancy Amplification' in Eugene McLaughlin and John Muncie (ed.) *The Sage Dictionary of Criminology.* 2nd edition. London, Thousand Oaks, New Delhi: Sage Publications: 127-129.

Muñoz de Morales Romero, M. (2011). *El legislador penal europeo: legitimidad y racionalidad*, Thomson Reuters, Pamplona.

Murji, K. (2006). 'Moral Panic' in Eugene McLaughlin and J. Muncie (ed.) *The Sage Dictionary of Criminology.* 2nd edition. London, Thousand Oaks, New Delhi: Sage Publications: 250-253.

Nagin, D. S. (1998). 'Deterrence and Incapacitation', in M. Tonry (ed.), *The Handbook of Crime and Punishment,* Oxford: Oxford University Press.

National Audit Office – NAO (2003). Getting the evidence: Using research in policy making, London.

Naughton, M. (2005). '"Evidence-based policy" and the government of the criminal justice system – only if the evidence fits!', *Critical Social Policy*, Vol. 25, No. 1, pp. 47–69.

Nevala, S. (2005). *Violence against women: A statistical overview, challenges and gaps in data collection and methodology and approaches for overcoming them.* Paper for the expert group meeting organized by UN Division for the Advancement of Women in collaboration with Economics Commission for Europe (ECE) and World Health Organisation (WHO), Geneva, 11-14 April 2005.

Newburn, T. (2012). 'Counterblast: Young People and the August 2011 Riots**',** *The Howard Journal of Criminal Justice,* 51(3): 331-335.

Packer, H. L. (1969). '*The Limits of the Criminal Sanctions*', Stanford: Stanford University Press.

Peas, K. (1994). Cross national imprisonment rates: Limitations of method and possible conclusions. *British Journal of Criminology* 34:116-130.

Peas, K. (2010). Prison, Community Sentencing and Crime. Civitas online report available from: http://www.civitas.org.uk/crime/CommunitySentencingAug2010.pdf. Accessed 13 August, 2012.

Pfeiffer, C., Windzio, M. and Kleimann, M. (2005). 'Media Use and Its Impacts on Crime Perception, Sentencing Attitudes and Crime Policy' *European Journal of Criminology* (2): 259-85.

Piliavin, I., R. Gartner, C. Thornton and R. L. Matsueda. (1986). 'Crime, Deterrence, and Rational Choice'. In *American Sociological Review.* 51:1, 101-119.

Pollack, J. and P. Slominski (2009). 'Experimentalist but not accountable governance? The role of Frontex in managing the EU's external borders', *West European Politics*, Vol. 32, No. 5, pp. 904-924.

Pratt, J., Brown, D., Brown, M., Hallsworth, S. and Morrison, W. (2005). *The New Punitiveness: Trends, Theories, Perspectives.* Portland/Oregon: Willan Publishing.

Pratt, T. C. and F. T. Cullen (2005). 'Assessing Macro-Level Predictors and Theories of Crime: A Meta-Analysis'. In *Crime and Justice*, 32: 373-450.

Pratt, J. (1997). Governing the Dangerous: Dangerousness, Law and Social Change. Leichhardt: The Federation Press.

Pratt, J. (2007). *Penal Populism*, Oxon, UK: Routledge.

Pujas, V. (2003). 'The European Anti-Fraud Office (OLAF): A European Policy to Fight Against Economic and Financial Fraud?', *Journal of European Public Policy*, Vol. 10, No. 5, pp. 778-797.

Quinney, R. (2004). *The Social Reality of Crime.* New Brunswick, London: Transaction Publishers.

Quirke, B. (2009). 'EU Fraud: Institutional and Legal Competence', *Crime, Law and Social Change*, Vol. 51, pp. 531-547.

Radaelli, C. M. (1999). 'The public policy of the European Union: whither politics of expertise?' *Journal of European Public Policy*, Vol. 6, No. 5, pp. 757 – 774.

Reicher, S. and Stott, C. (2011). 'Mad Mobs and Englishmen? Myths and Realities of the 2011 Riots', available at http://www.guardian.co.uk/science/2011/nov/18/mad-mobs-englishmen-2011-riots

Reiner, R. (1997). Mass Media Criminality: The Representation of Crime. In: Maguire, M., Morgan, R. and Reiner, R. Eds. *The Oxford Handbook of Criminology.* Oxford: Oxford University Press: 189-231.

Reiner, R. (2010). *The Politics of Policing.* 4th Edition. Prentice Hall/Harvester Wheatshaf: Hemel Hempstead.

Reiner, R., Livingstone, S. and Allen, J. (2000). No more happy endings? The media and popular concern about crime since the Second World War. In: Hope, T. and Sparks R. Eds. *Crime, Risk and Insecurity.* London: Routledge: 107-126.

Reiner, R., Livingstone, S. and Allen, J. (2001). Casino culture: Crime and media in a winner-loser society. In K. Stenson and R. Sullivan Eds., *Crime, Risk and Justice: the politics of crime control in liberal democracies.* Cullompton: Willan Publishing: 174-194.

Reisig, M., Bratton, J. & Gertz, M. (2007). The Construct Validity and Refinement of Process-Based Policing Measures. Criminal Justice and Behavior, 34, pp. 1005-1028.

Renda, A. (2006). *Impact Assessment in the EU. The State of the Art and the Art of the State*, Centre for European Policy Studies, Brussels.

Robbers, M. (2006). Tough-mindedness and fair play: personality traits as predictors toward the death penalty—An exploratory gendered study. Punishment & Society, 8(2), pp.203–222.

Roberts, J. V. (1992). Public opinion, crime, and criminal justice. In: Tonry M (ed.) Crime and Justice: A Review of Research. Chicago: University of Chicago Press, Vol. 16: 99-180.

Roberts, J. V. and Hough, M. (2005). *Understanding public attitudes to criminal justice.* Maidenhead: Open University Press.

Roberts, J. V., and Hough, M. (eds) (2002). *Changing Attitudes to Punishment: Public Opinion, Crime and Justice.* Cullompton: Willan Publishing.

Roberts, J. V., Stalans, L. S., Indermaur, D. and Hough, M. (2003) *Penal Populism and Public Opinion: Findings from Five Countries.* New York: Oxford University Press.

Roberts, J. V. & Stalans, L. J. (2000). Public opinion, crime, and criminal justice. Boulder, Colo, Westview Press.

Roberts, J. V. and Hough, M. (2005). Understanding Public Attitudes to Criminal Justice. Maidenhead: Open University Press.

Roberts, J.V., Stalans, L., Indermaur, D., Hough, M. (2003). *Penal Populism and Public Opinion: Lessons from Five Countries*, Oxford: Oxford University Press.

Roberts, Stalans & Lemieux, F. (1999). Book Reviews - Public Opinion, Crime, and Criminal Justice. Canadian Journal of Criminology. Revue Canadienne De Criminologie. 41, p. 104.

Roberts., J. V. and Hough, M. (2005a). 'Sentencing Young Offenders: Public Opinion in England and Wales', *Criminal Justice Vol 5***,** 3, pps 211-232.

Roder, A. and P. Muhlau (2012). 'What determines the trust of immigrants in criminal justice institutions in Europe?' In *European Journal of Criminology,* 9: 370-387.

Rossi, P. & Berk, R. (1997). Just punishments: Federal guidelines and public views compared. Hawthorne: Aldine Transaction.

Sacco, V. F. (2005). *When Crime Waves.* Thousand Oaks, London, New Delhi: Sage Publications.

Sandys, M., & McGarrell, E. F. (1995). Attitudes toward capital punishment: preference for the penalty or mere acceptance? Journal of Research in Crime and Delinquency, 32, pp. 191-213.

Sarat, A. (1977). Judging in Trial Courts: An Exploratory Study. The Journal of Politics, 39, pp. 368-398.

Sasson, T. (1995). *Crime Talk: How Citizens Construct a Social Problem*, Hawthorne NY: Aldine de Gruyter.

Scherrer, A., J. Jeandesboz and E. P. Guittet (2011). *Developing an EU Internal Security Strategy, fighting terrorism and organised crime*, Study prepared for the LIBE Committee of the European Parliament, Brussels.

Scott, D. H. and C. W. Kohfeld (1985). 'Crimes, crime rates, arrests, and arrest ratios: implications for deterrence theory'. In *Criminology,* 23:3, 437-450.

Scott, J. and G. Marshall (2005). *Oxford Dictionary of Sociology*, Oxford: Oxford University Press.

Scribbins, M., Flatley, J., Parfrement-Hopkins, J., & Hall, P. (2010). Public Perceptions of Policing, Engagement With the Police and Victimisation: Findings From the 2009/10 British Crime Survey.

Serzysko, A. (2011). *Eurojust and the European Judicial Network on a new legal basis*, ERA Forum, Vol. 11, pp. 585-600.

Sheptycki (2004). 'Organisational pathologies in police intelligence systems: some contributions to the

lexicon of intelligence-led policing', *European Journal of Criminology*, Vol. 1, No. 3, pp. 307-332.

Sheptycki, J. H. Ben Jaffel and D. Bigo (2011). *International organised Crime in the European Union*, Note prepared for the Committee on Civil Liberties and Justice and Home Affairs of the European Parliament.

Shils, E. (1956). *The Torment of Secrecy: the Background and Consequences of American Security Policies.* London: William Heinemann, Ltd.

Siaroff, A. (1994). Work, Welfare and Gender Equality: a New Typology. In: Sainsbury, D. (ed.) *Gendering Welfare States.* London: Sage, 82–100.

Siegrist, M. (2010). Trust and Confidence: The difficulties in distinguishing the two concepts in research. *Risk Analysis*, 30(7): 1022-1024.

Simon, J. (2001). Entitlement to cruelty: neo-liberalism and the punitive mentality in the United States. In: Stenson K, and Sullivan R (eds) *Crime Risk and Justice.* Collumpton: Willan Publishing, 125-143.

Sims, B., and Johnson, E. (2004). Examining public opinion about crime and justice: a statewide study. *Criminal Justice Policy Review* 15 (3): 270-293.

Skogan, W. (2005). Citizen Satisfaction with Police Encounters. Police Quarterly. 8, 298-321.

Skogan, W. (2006). Asymmetry in the impact of encounters with the police. *Policing & Society,* 16(2): 99-126.

Skovron, S. E., Scott, J. E. & Cullen, F. T. (1989). The death penalty for juveniles: an assessment of public support. In Crime and Delinquency 35, pp. 546-561.

Smith, D. (2010). Public confidence in the Criminal Justice System findings from the British Crime Survey 2002/03 to 2007/08. London, Ministry of Justice.

Smith, M. & Mateju, P. (2009). Trust, social justice and corruption perceptions in the Czech republic, Conference papers -- American Sociological Association, p. 1.

Smoke, R. (1996). Perceptions of Security: Public Opinion and Expert Assessments in Europe's New Democracies. Manchester: Manchester University Press.

Soss, J., Langbein, L. and Metelko, A.R. (2003). Why do White Americans support the death penalty? *The Journal of Politics* 65 (2): 397-421.

Sparks, R. (1992). Television and the Drama of Crime: Moral Tales and the Place of Crime in Public Life. Buckingham, Philadelphia: Open University Press.

Spelman, W. (2000). '*What Recent Studies Do (and Don't) Tell Us about Imprisonment and Crime*'. In Crime and Justice, 27: 419-494.

Stack, S. (2003) Authoritarianism and support for the death penalty: a multivariate analysis. *Sociological Focus* 36:333-352.

Stanko, E. and Bradford, B. (2009). Beyond Measuring 'How Good a Job' Police Are Doing: The MPS Model of Confidence in Policing. *Policing: A Journal of Policy and Practice*, 3(4): 322-330.

Stoutland, S. E. (2001). The Multiple Dimensions of trust in Resident/Police relations in Boston. Journal of Research in Crime and Delinquency 38(3), pp. 226-256.

Sunshine, J. and T. R. Tyler (2003). '*The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*' *Law and Society Review* 37(3), 513-548.

Sunshine, J. and Tyler, T. (2003). Moral Solidarity, Identification with the Community, and the Importance of Procedural Justice: The Police as Prototypical Representatives of a Group's Moral Values. *Social Psychology Quarterly,* 66(2): 153-165.

Surette, R. (1998). *Media, crime, and criminal justice: images and realities.* 2nd edition. Wadsworth: Belmont, CA.

Surette, R. (2007). *Media, Crime, and Criminal Justice: Images, Realities, and Policies*, Belmont: Wadsworth.

Surette, R. (2011). *Media, Crime and Criminal Justice: Images, Realities and Policies.* 4th edition. United States: Wadsworth, Cengage Learning.

Tavares, C., Thomas, G. & Bulut, F. (2012). *Population and social conditions. Eurostat Statistics in focus 6/2012.*

The New York Times (2012). Norway Mass Killer Gets the Maximum: 21 Years. Available from: http://www.nytimes.com/2012/08/25/world/europe/anders-behring-breivik-murder-trial.html?pagewanted=all. Accessed on 2 September 2012. A version of this article appeared in print on 25 August 2012, on page A3 of the New York edition with the headline: Norwegian Mass Killer Gets Maximum Sentence: 21 Years.

Tonry, M. (1999). Why are U.S. incarceration rates so high? *Crime and Delinquency* 45: 419-437.

Tonry, M. (2008). 'Learning from the Limitations of Deterrence Research'. In *Crime & Justice*, 37: 279-311.

Tonry, M. (2009). Explanations of American punishment policies. Punishment & Society, 11, 3, pp. 377-394.

Tseloni, A., J. Mailley, G. Farrell and N. Tilley (2010). 'Exploring the international decline in crime rates', in *European Journal of Criminology*, 375-394

Tseloni, A., Mailley, J., Farrel, G. & Tilley, N. (2010). Exploring the international decline in crime rates. *European Journal of Criminology* 7 (5): 375-394.

Tydén, T. & Nordfors, D. (2000). INFOPAC – Researchers Learn Research Dissemination by Doing, *Science Communication*, vol. 21, No. 23, March: 296-308.

Tyler, T. (2003). '*Procedural Justice, Legitimacy, and the Effective Rule of Law*', In Crime and Justice, 30: 431-505

Tyler, T. (2006). *Why people obey the law: procedural justice, legitimacy, and compliance.* Princeton, US: Princeton University Press.

Tyler, T. (2006, first ed. 1990). '*Why People Obey the Law*', Princeton: Princeton University Press.

Tyler, T. (ed., 2007). *Legitimacy and Criminal Justice.* Russell Sage Foundation: New York.

Tyler, T. (2010). *Why People Cooperate: the role of social motivation*, Princeton: Princeton University Press 2011

Tyler, T. and Y. J. Huo (2002). *Trust in the law: Encouraging public cooperation with the police and courts*, New York, 2002

Tyler, T., J. D. Casper and B. Fisher (1989). 'Maintaining Allegiance toward Political Authorities' *American Journal of Political Science*, 3:629-52.

Tyler, T. R. (2006). Psychological perspectives on legitimacy and legitimation. *Annual Review of Psychology* 57: 375-400.

Tyler, T. R. (ed.) (2007). *Legitimacy and criminal justice.* New York, US: Russell Sage.

Tyler, T. R. and Huo, Y.J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts.* New York, US: Russell Sage.
Tyler, T.R. & Wakslak, C.J. (2004). Profiling and the legitimacy of the police. *Criminology,* 42: 253-282.

Tyler, T. R. and Weber, R. (1982). Support for the death penalty: instrumental response to crime, or symbolic attitude? *Law and Society Review,* 17(1): 21-46.

Tyler, T. (2001). Public trust and confidence in legal authorities: what do majority and minority group members want from the law and legal institutions?, Behavioural Sciences and the Law 19, pp. 215-235.

Tyler, T. (2007). Why people obey the law (2nd edition). New Haven: Yale University Press.

Tyler, T. (2006). *Why people obey the law.* New Jersey: Princeton University Press.

Tyler, T. and Boeckmann, R. (1997). Three strikes and you are out, but why? The psychology of public support for punishing rule breakers. *Law and Society Review* 31(2): *237-265.*

Tyler, T. and J. Fagan (2008). Legitimacy and cooperation: why do people help the police fight crime in their communities?, Ohio State Journal of Criminal Law 6, pp. 231-275.

Tyler, T. and Y. Huo (2002). Trust in the law: encouraging public cooperation with the police and courts. New York: Russell Sage Foundation.

Tyler, T. R. (1990). Why people obey the law. New Haven, Yale University Press.

Tyler, T. R. (2010). Why people cooperate the role of social motivations. Princeton, N.J., Princeton University Press.

Unnever, J. D. and Cullen, F. T. (2007). The racial divide in support for death penalty: does white racism matter? *Social Forces*, 85 (3): 1281-1302.

Unnever, J. D., Cullen, F. T. and Fisher, B.S. (2007). A liberal is someone who has not been mugged: criminal victimization and political beliefs. *Justice Quarterly* 24(2): 309-334.

Unnever, J. D., Cullen, F. T. and Roberts, J. V. (2005). Not everyone strongly supports the death penalty: assessing weekly held attitudes towards capital punishment. *American Journal of Criminal Justice* 29 (2): 187-216.

Unnever, J. D. & Cullen, F. T. (2005). Executing the innocent and support for capital punishment: implications for public policy. Criminology and Public Policy, 4, pp. 3-37.

Unnever, J. D., Benson, M. L. & Cullen, F. T. (2008). Public support for getting tough on corporate crime: racial and political divides. Journal of Research in Crime and Delinquency, 45(2), pp. 163-190.

Van Damme, A., Pauwels, L., Pleysier, S. and Van de Velde, M. (2010). Beelden van vertrouwen: het vertrouwen in politie en justitie in perspectief geplaatst [Images of confidence: Confidence in police and justice put in perspective]. Orde van de dag 52: 7-20.

Van de Walle, S. (2009). Trust in the Justice System: A Comparative View Across Europe. Prison Service Journal, No. 183, pp. 22-26.

Van Dijk, J. (2007b). The International Crime Victims Survey and Complementary Measures of Corruption and Organised Crime. *Crime Prevention Studies*, volume 22: 125-144.

Van Dijk, J. J. M., Manchin, R., van Kesteren, J.N., Nevala, S., Hideg, G. (2007). The Burden of Crime in the EU, a Comparative Analysis of the European Crime and Safety Survey (2005 EU ICS). Brussels, Gallup Europe.

Van Dijk, J. (2007a). Mafia markers: assessing organized crime and its impact upon societies. *Trends in Organized Crime* 10: 39-56.

Van Dijk, J. (2008). *The World of Crime*, Sage Publications 2008.

Van Dijk, J., Manchin, R., van Kesteren, J., Nevala, S. & Hideg, G. (2007a). *The Burden of Crime in the EU. Research Report: A Comparative Analysis of the European Crime and Safety Survey (EU ICS) 2005.* Gallup Europe, UNICRI, Max Planck Institute, CEPS/INSTEAD & GeoX Ltd.

Van Dijk, J., van Kesteren, L. & Smit, P. (2007). *Criminal Victimisation in International Perspective. Key findings from the 2004-2005 ICVS and EU ICS.* WODC Report 257. The Hague: Boom Jurisishe uitgevers. Available online at: http://english.wodc.nl/onderzoeksdatabase/icvs-2005-survey.aspx?cp=45&cs=6796 (last accessed on 18 July 2012).

Van Dijk, T. A. (1995). „Discourse Analysis as Ideoogy Analysis" in Anita Wenden and Christina Schaffner (ed.) *Language and Peace.* Aldershot: Dartmouth Publishing: 17-33.

Van Dijk, T. A. (1998). 'Discourse and Cognition in Society' in David J. Crowley and David Mitchell (ed.) *Communication Theory Today.* Cambridge: Polity Press: 107-124.

Van Dijk, T. A. (2009). *News as Discourse.* New York, London: Routledge.

Van Duyne, P. (2007). 'OCTA 2006: the Unfulfilled Promise', *Trends in Organised Crime*, Vol.10, pp.120 – 128.

Van Duyne, P. and T. Vander Beken (2009). 'The incantations of the EU organised crime policy making', Crime, Law and Social Change, Vol. 51, pp. 261-281.

Vanderveen, G. (2006). Interpreting Fear, Crime, Risk and Unsafety: Conceptualisation and Measurement. Den Haag: Boom Juridische uitgevers.

Vidmar, N. (2001). Retribution and revenge. In J. Sanders & V. L. Hamilton (Eds.), Handbook of justice research in law (pp. 31-63). New York: Kluwer Academic/Plenum Publishers.

Vilmorus Market and Opinion Research Centre. 'Opinion Polls on Trust in Institutions: 2009-2010'.

Vogel, B. L. & Vogel, R. E. (2003). The age of death: appraising public opinion of juvenile capital punishment. Journal of Criminal Justice, 31, 169–183.

Vollum, S. and Buffington-Vollum, J. (2009). An examination of social psychological factors and support for the death penalty: attribution, moral disengagement, and the value expressive function of attitudes. *American Journal of Criminal Justice:* 15-36.

Vollum, S., Longmire, D. R. and Buffington-Vollum, J. (2004). Confidence in the death penalty and support for its use: Exploring the value-expressive dimension of death penalty attitudes. *Justice Quarterly* 21 (3): 521-546.

Von Hirsh, A., Bottoms, A., Burney, E. and P.-O. Wikstrom (1999). *Criminal Deterrence and Sentence Severity: An analysis of recent research.* Oxford: Hart Publishing.

Von Hofer, H. (2000). Crime Statistics as Constructs: The Case of Swedish Rape Statistics. *European Journal on Criminal Policy and Research* 8: 77-89.

Von Lampe, K. (2004). 'Making the second step before the first: Assessing Organised Crime', *Crime, Law and Social Change*, Vol. 42, pp. 227-259.

Wacquant, L. (2009). *Punishing the Poor: the Neoliberal Government of Social Insecurity.* London: Duke University Press.

Waddington, P.A.J. (2012). 'Explaining the riots', *Criminal Justice Matters*, 87(1): 10-11.

Walker, N. (1979). '*The Efficacy and Morality of Deterrence*'. In *Criminal Law Review*, 125-144.

Walklate, S. (1995). Gender and Crime: an Introduction. London: Prentice Hall / Harvester Wheatsheaf.

Weatherburn, D., Matka, E., Lind, B. (1996). Crime Perception and Reality: Public Perceptions of the Risk of Criminal Victimisation in Australia. In Crime and Justice Bulletin, 28, NSW Bureau of Crime Statistics and Research.

Weber, M. (1978, first ed. 1922). *Economy and Society.* Berkley: University of California Press.

Weisburd, D. & Neyroud, P. (2011). Police science: toward a new paradigm. [Cambridge, Mass.], Harvard Kennedy School Program in Criminal Justice Policy and Management. http://www.ncjrs.gov/pdffiles1/nij/228922.pdf.

Weisburd, D., Mastrofski, S., McNally, A. M., Greenspan, R. and Willis, J. (2003). Reforming to preserve: Compstat and strategic problem solving in American Policing. Criminology and Public Policy, 2, pp. 421-456.

Weitzer, R. (2002). Incidents of police misconduct and public opinion. *Journal of Criminal Justice* 30: 397-408.

Wodak, R. and Krzyzanowski, M. (eds.) (2008). *Qualitative Discourse Analysis in the Social Sciences.* Basingstoke, New York: Palgrave Macmillan.

Wodak, R. and Meyer, M. (eds.) (2010). *Methods of Critical Discourse Analysis.* 2nd edition. London, Thousand Oaks, New Delhi, Singapore: Sage Publications.

Wood, J. and Gannon, T. (eds.) (2009). *Public Opinion and Criminal Justice.* Cullompton, Portland: Willan Publishing.

Wrong, D. (1980). *Power: Its forms, bases and uses.* New York: Harper and Row.

Xanthaki, H. (2010). 'What is EU Fraud? And can OLAF really combat it?', *Journal of Financial Crime*, Vol. 17, No. 1, pp. 133 – 151.

Yordanova, M. (Ed.) (2011). *Crime and Punishment. Studying Justice System for Shaping Criminal Policy*. Center for the Study of Democracy, Sofia.

Young, A. (1996). Imagining Crime: Textual Outlaws and Criminal Conversations. London: Sage.

Young, J. (1968). 'The Role of Police as Amplifiers of Deviance, Negotiators of Reality and Translators of Fantasy' *NDC 1st Symposium* (November).

Young, J. (1971). *The Drug Takers*. London: Paladin.

Young, J. (1988). 'Risk of Crime and Fear of Crime' in Mike Maguire and John Pointing *Victims of Crime: a New Deal*. Milton Keynes: Open University Press.

Young, J. (2004). 'Constructing the Paradigm of Violence: Mass Media, Violence and Youth' in Hans-Jörg Albrecht, Telemach Serassis and Harald Kania (ed.) *Images of Crime II*. Freiburg: Max Planck Institute: 187-98.

Young, J. R. (2003). The Role of Fear in Agenda Setting by Television News. In American Behavioral Scientist Vol. 46 (12), pp. 1673-1695.

Young, R. L. (1992). Religious orientation, race and support for the death penalty. Journal for the Scientific Study of Religion, 31, pp. 76-87.

Zauberman, R. (2008). *Assessing Deviance, Crime and Prevention in Europe. Surveys on Victimisation and Insecurity in Europe.* CRIMPREV.

Zeizel, H. & Gallup, A. M. (1989). Death penalty sentiment in the United States. In Journal of Quantitative Criminology, 5, pp. 285–296.

Zimring, F., Hawkins, G. and Kamin, S. (2001) *Punishment and Democracy: Three Strikes and You're Out in California.* New York: Oxford University Press.

Zimring, F. E. and G. J. Hawkins (1995). *Incapacitation: Penal Confinement and Restraint of Crime.* New York: Oxford University Press.

Edited by: Stefano Maffei and Lenga Markopoulou
Designed by: Babis Touglis and Achilleas Gerokostopoulos (www.thezyme.gr)
Proofreading: Intertranslations (www.intertranslations.gr)

Published by the EPLO in September 2013

This publication has been produced with the assistance of the European Union.
The contents of this publication are the sole responsibility of The Fiducia Project Partners and can in no way be taken to reflect the views of the European Union.

This publication contains the findings of the FIDUCIA project's first-year of research, namely a review of the state of knowledge on crime trends, the effectiveness of current criminal policies and the fear of crime, trust in justice and punitive attitudes of citizens across Europe.

Edited by:
Stefano Maffei & Lenga Markopoulou

Stefano Maffei (D.Phil. Oxon) is an Italian academic lawyer, expert in Human Rights and Criminal Justice, and the coordinator of the FIDUCIA project.

Lenga Markopolou is the communications officer of the EPLO, responsible for the dissemination component of the Fiducia project.

fiducia
Justice Needs Trust

www.fiduciaproject.eu