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Executive Director's Prologue

Detlef Schröder
Executive Director

Dear Readers,



2020 – What a challenge! A single word is not enough to describe it.

On the 19th edition of the Bulletin, I had already pointed out some of the most relevant impacts of COVID-19 for Europe and the law enforcement communities. In the meanwhile, the pandemic and the reactions of the governments and societies in Europe have further evolved.

Before I elaborate on the most critical aspects affecting us in 2020, I would like to take this opportunity to express my great satisfaction on the release of the 20th edition of our CEPOL Bulletin. CEPOL has been bringing this publication to its audience for 11 years now. Besides many other international publications on law enforcement matters and related topics, our Bulletin has managed to find its place within the European law enforcement communities and the academic circles. I am very grateful for the high-quality contributions submitted over all these years by our authors. I am equally grateful for all those engaged in the editorial work. You, all together, made possible the well-earned good international reputation that this publication enjoys today.

Returning to the global pandemic, realising that our hopes for better circumstances by the end of the year have not materialised is somehow disheartening. The situation has worsened in the last weeks across Europe. While we see the light at the end of the tunnel, with the vaccine coming to the market very soon and quick tests being available, we still see cases reach record highs and the pressure on our health system growing.

Already in June, CEPOL, in cooperation with the Croatian Presidency of the Council of the European Union, held a high-level online conference on the impact of COVID-19 on law enforcement communities in Europe and about the first lessons learned. It was engaging to listen to the experiences from different countries throughout the first wave of the pandemic. At that time, Italy and Spain had been the worst hit countries. Unfortunately, several other EU Member States have undergone a similar drastic experience as them.

The law enforcement communities are going through an extremely challenging period that requires agile adjustments of the services and learning curves on high speed. One key question is, how can we make officials and organisations more resilient in such a pandemic? For obvious reasons, officials are concerned about their health situation and the potential risks for their families. EU Member States have tried to adjust their procedures, made personal-protection-equipment available, and invested in regular and frequent testing. However, the risks remain, and officials died this year from COVID-19 after exposure to the virus while on duty.

Many areas of administration and industry have moved into an online mode. This shift is, for law enforcement, in no small degree impracticable. How to do an arrest or a house search while sitting in the home office?

New challenges for law enforcement have been emerging as the pandemic was developing further. Some crime areas decreased; others enormously increased. The decision to close bars and restaurants had a direct impact on street or night crime for good. However, other areas of crime and insecurity have experimented spikes during the pandemic: Some countries reported a substantial increase in domestic violence. In several countries, we have seen clashes between protesters against COVID-19 related restrictions and police forces. Law enforcement officials have fought against substandard PPE equipment and fake medicine. In parallel, the law enforcement services had to build up not only new controls at the external borders of countries, but to enforce local, regional or night curfews.

Additionally, home-office and home-schooling have brought a massive dependency on online services and infrastructure. In many cases, organisations and individuals have not been sufficiently prepared for such a fast and dynamic switch into an online environment. Essential security aspects have been often neglected towards the advantage of a fast change. As a result of the new scenario, we have observed across the globe a high increase in cybersecurity and cybercrime cases as we have seen cybercriminals successfully exploiting the weaknesses of IT systems. At this point, when economies of states are strongly dependant on a secure cyber environment, this becomes a vital issue for our societies.

In the current lockdown situation in our countries, we entirely depend, within our daily social life, including schooling and studying, on secure online environments. This is a pressing issue on the level of the individuals.

With all the above said, and to complete the picture, we should not forget that the usual crime and security challenges are not gone at all! The virus has not diminished serious and organised crime groups in any shape. Organised crime remains as a relevant security threat in Europe.

As a matter of fact, and based on the research of EMCDDA, illicit drugs are a very relevant issue that deserves our full attention. Additionally, we are operating in a complex geopolitical environment. Crises in countries such as Syria, Libya, Ukraine, Iraq or Belarus, may have a massive impact on our internal security. And what can be said about BREXIT? The tangible impact of a potential no-deal is still not clear.

Equally, all law enforcement communities and academics in Europe are strongly invited in the next months and years to pay attention to the critical question of potential racism in law enforcement services. The Black Lives Matters movement in the US in 2020 has raised relevant questions in this direction, also in Europe. All in all, this year was seriously tough and demanding for all officers and services in Europe - and this is set to remain for quite a while!

However, we should not be afraid of all these challenges. During 2020, the law enforcement services have proven their high capability again to adjust very quickly, and we have seen numerous examples of excellent cross border cooperation across Europe despite the COVID-19 restrictions.

I am confident that with our proven outstanding commitment, our joint professional competences, our readiness for solidarity and our strength as communities across borders, we will ensure the security of our citizens despite this pandemic!

Police and law enforcement can never shy away from challenges –and we are currently in the middle of a historical one. Let us get through this and stay strong – and healthy. Together.

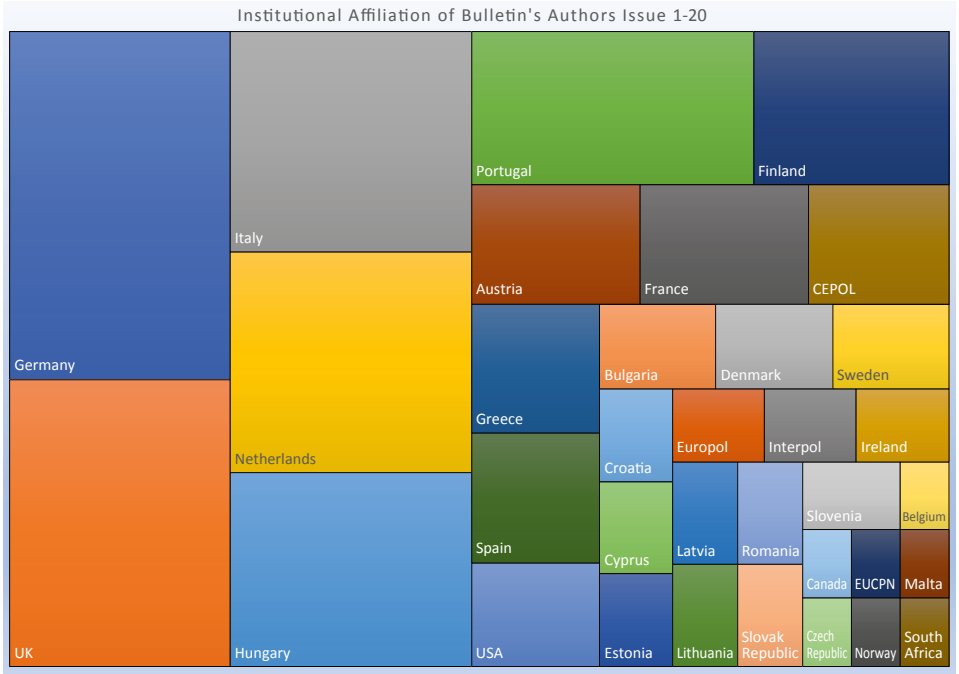
Executive Director CEPOL

Dr. h.c. Detlef Schröder

Editorial

The year 2020 is soon going to end and – what are the odds! – this is also the 20th regular issue of the Bulletin, a periodical which started in 2009 under its initial title *European Police Science and Research Bulletin*, and has now become the *European Law Enforcement Research Bulletin*. The general purpose has been still the same since: to provide an open-access forum for those who have a stake or a professional interest in reflecting upon and developing policing and law enforcement via the means and standards of scientific research and high professional standards in the particular context of Europe and the democratic values promoted by the European Union.

Around 180 genuine articles and contributions have been published in the twenty issues of the Bulletin so far (not counting Editorials or the five *Special Conference Editions*), authored by scholars and law enforcement practitioners from (almost) all EU Member States, Europol and Interpol, and from the United States, Canada and South Africa. Taking into account the institutional affiliation of authors only – some articles have been co-written by authors from more than one country and the nationality of contributors might be a different one – the proportionate distribution of contributions across countries and EU-agencies is depicted here:



Despite of Brexit, English will continue as the publication language of the Bulletin, but the editors are keen to receive more input from Member States where the native language is a different one – promoting a European police and law enforcement culture needs input from all corners of the continent.

Bulletin Nr. 20 happens to be the first production under the editorship of the new members of the Editorial Board, which have been introduced to the readership in the Editorial of the previous issue. It is also the first time we are introducing a book review section. Issue Nr. 20 is rich with content, which we hope will find the interest of our audience.

This release opens with an outright topical and learned exploration of the implications the Covid-pandemic has had so far and will have on crime patterns and policing by experienced criminologist ***Rob Mawby*** from the United Kingdom. The article takes us in a *tour-de-force* through some of the available research studies on the virus's impact on crime rates and shift in the displays of crime and what criminologists could make of it in regard to their theoretical framework. In the second part he elaborates how police and policing has been impacted in three distinct ways: enforcement of new legislation, use of new strategies, and deployment of unusual personnel. Articles about the impact of the Corona-pandemic on policing and law enforcement will possibly spread in the near future – this highly instructive contribution is just one among the first wave.

One popular feature of this year's reporting in newspapers and other media was the listing and comparison of infection incidence between various countries – often with a view to identifying the most effective counter-epidemic strategy, sometimes with a touch of complacency. However, comparing statistical numbers across countries, without taking into account those figure's genesis and context can lead to premature and misleading conclusions. This is the message that ***Christiana Vryonidou*** and ***Markianos Kokkinos*** from the Cyprus Police Academy would like to bring up when the (nominal) ratio of police officers per 100.000 inhabitants is used in evaluation or political discussion. At the same time this article's critical stance opens the arena for a more profound consideration, who and what shall be counted in Europe as "police" – only if the criteria are (more) transparent comparisons and visions of a European police and law enforcement culture make theoretical sense.

Talking about "European police culture" in the very year where "Black lives matter" became in the global media a synonym for excessive use of force and unethical police conduct – first in the USA, then with echoes in Europe (for instance, France and Germany) –, the list of contributions continues with the notes from a presentation ***Stefano Failla*** (CEPOL) delivered at an online-conference on the occasion of the 20th anniversary of the introduction of the "European Code of Police Ethics" – a guidance which might come in handy at the right time to prevent undesirable individual misconduct and loss of institutional reputation.

Guidance, fetched from many years of well-reflected practical experience and collective thorough scientific research alike, is also the essence of ***Gary Cordner***'s article on how to build and apply evidence-based policing. It is an invited summary of an extended guidebook recently published by U.S. Department of Justice, useful for both starters and advanced learners, providing not just the "theoretical spirit" of this approach, but also catering for the pragmatists' practical needs. With this contribution, we continue the line of articles in the Bulletin inviting to put more emphasis on (scientific) evidence in law enforcement practices.

The importance of evaluating training programmes is well understood by any law enforcement educational institution adhering to modern principles of management. Before he joined the team of Bulletin editors recently, former active senior police officer and educational specialist ***André Konze*** submitted his paper on how human rights training is evaluated in programmes run under the auspices of the Council of Europe. The article, based on his PhD study, provides interesting insights into the realities of institutional training programmes and how trainers and managers try to deal with the obstacles they find out in front of them.

Shedding some explorative light on the area of law enforcement –tax authorities are mainly concerned with-, ***Umut Turksen***,a specialist researcher at Coventry University, investigates the lack of effectiveness and efficiency he perceives in regard to the hitherto applied countermeasures against tax crimes, leaving significant gaps for perpetrators. Based on insights

from the ongoing H2020-funded PROTAX-project, the author discusses the under-development of common definitions as a major obstacle for making progress in this area.

There is little doubt that our modern world – and our own world view – is increasingly dominated by images and the visual (re)presentation of our lives. In our 21st century, pictures in newspapers and magazines is yesterday's technology – (MTV) 'video had killed the radiostar' long time ago; today Facebook, Instagram and ubiquitous visual recording devices feed and shape people's mind. The process of criminal investigation hasn't been untouched by this shift in cultural practices and the paper by ***Fausto Galvan***, while a bit on the technical sight, serves as a legible introduction into the field of image and video forensic and provides some useful hints.

A different kind of cultural shift – the (political and social) reassessment of intimate partner violence and domestic violence – has triggered innovative responses and measures by law enforcement. Highlighted by observers from the early stages of the pandemic, anticipating the restrictions of free movement imposed by governments, a potential significant surge in cases of domestic abuse and violence has been a cause of concern since. In this issue of the Bulletin, three articles are presenting findings of recent studies on this topic.

Eduardo Ferreira presents research on the historic development and impact the national deterrence policy had on the prevalence of intimate partner violence and the judicial handling in Portugal. The report by ***Paul Luca Herbinger, Marion Neunkirchner, and Norbert Leonhardmair*** from the IMPRODOVA project (see also Bulletin Nr. 19) extends the horizon onto a comparative level and discusses preliminary findings which would explain the variances among European legislation targeting domestic violence. In the same project context ***Lisa Sondern*** and ***Bettina Pfleiderer*** examine the variations in the use of standardised risk assessment tools for high-impact domestic violence by front-line responders across European countries. They highlight the appropriate understanding of the terms sex and gender, and derive recommendations for risk assessments in this regard.

Strengthening the law enforcement related cooperation with and between countries at Europe's southern borders had been the objective of the Euromed Police VI project, on which ***Katalin Berenyi*** and ***Zoé Freund*** report in detail about the achievements of this ambitious and complex project in their paper.

Last but not least, there is a novelty in the Bulletin: for the first time we introduce the section for ***Book Reviews***. The review of a book by a knowledgeable reviewer serves more than one purpose: it informs the reader about new releases by publishers than otherwise would have been missed; it provides the author(s) with a pretty public feed-back about the scale of merits earned (or not); it delivers a convenient summary reading of many pages of scientific prose for the reader; finally it can stimulate scholarly debate and practitioners' insight on important and emerging topics. We are happy to present the first two reviews

in this issue, tackling the monumental volume by Cyrille Fijnaut on the "***The Development of Police and Judicial Cooperation in the European Union***" and the highly relevant PhD study "***The Police, the Public, and the Pursuit of Trust"*** by Dorian Schaap (see also his article in the previous issue of the Bulletin). The editors would like to thank both pioneering reviewers ***Hartmut Aden*** and ***Rob Mawby*** for their sustained efforts.

The editors hope that more book reviews can be published in future issues and are inviting suggestions and offers from readers and publishers.

Dr. Detlef Nogala

Managing Editor

DISCUSSION

CORONAVIRUS, CRIME AND POLICING:
Thoughts on the implications of the lockdown rollercoaster

Rob Mawby
Visiting Professor of Rural Criminology
Harper Adams University[1]



Abstract
The coronavirus pandemic has had a major impact on societies across the world. While much of the focus has been on the impact on health and financial wellbeing, crime patterns have also been affected. Correspondingly, police systems, policing, and the legal system within which the police operate, have also changed, less because of the changing crime pattern and more as the police have been empowered with policing health. This exploratory discussion looks at how crime and policing have been affected by the pandemic and speculates about the long-term impact when societies return to a new normal.

Keywords: *COVID-19; crime prevention; changing crime rates; crime patterns; policing health; changes to police systems; lifestyle and crime; routine activities; policing issues*

Introduction

The coronavirus now recognised as COVID-19 was first identified in the Peoples' Republic of China (PRC) in late 2019 and spread across the globe in 2020, with epicentres in European countries, initially Italy and Spain, then France and the UK. Reacting to the threat, the WHO recommended a range of measures to limit the spread of the virus. These measures were adopted, to varying degrees, by different governments and, at their ex-

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treme, became known as lockdowns. In enforcing the lockdowns, governments turned to education campaigns and appeals to citizens to act responsibly, but in most cases, this was backed up by legislation, with the role of the police central in enforcing the 'new normal'. In many cases these lockdowns applied nationwide, but in other cases they have been enforced differently in different regions within countries. As COVID-19 subsequently spread through Africa and America, the situation in much of Europe eased, leading to some partial easing of lockdowns. However, at the time of going to press (October 2020) there is strong evidence of a second spike across Europe, leading to the reintroduction of many restrictions, either nationwide or region-specific.

While much of the research on COVID-19 has focused on the health sphere, criminologists and police scientists have addressed the impact of the pandemic on crime and policing. This has led, rather strangely, to a plethora of research studies on the impact of lockdowns on crime, whereas writings on policing tend to be more speculative. This article aims to review the debate to date. However, this is with two provisos. Firstly, it should be noted that it focuses, albeit not exclusively, on UK and English-language-based material. Secondly, it is important to recognise that the pandemic, and legal and policing responses to it, are ongoing, meaning that much of the material, including this article, may be already dated!

That said, the following two sections address the impact of the pandemic and governmental responses: firstly, on crime and disorder and then on policing. In each case, academic and practitioner discourses have been supplemented with media reports. The final section then summarises the findings and speculates on the future.

The impact of COVID-19 on crime rates and crime patterns

The coronavirus pandemic has had a profound effect on the health of nations across the world, crucially on mortality rates, on the health and care systems and on the economy. But it has also impacted on fundamental aspects of our life: how we behave as individuals and as social animals. We have changed our behaviour in a number of ways, as is illustrated through analysis of mapping technologies. [2] There are a number of reasons for this. Firstly, some people's activities will be directly affected by the virus, for example if they become ill or are caring for family members who are ill. Secondly, some activities will be affected by people's fear of becoming infected, leading to them *inter alia* staying at home more frequently or relying less on public transport, as a recent YouGov study in the UK shows (Travel Mole, 2020). Finally, people's activities have been influenced by government actions, advisory or mandatory, including school, amenity, shop or business closures, restrictions on travel etc. Of course, there have been variations between coun-

2 See for example: www.apple.com/covid19/mobility accessed 21 July 2020.

tries in terms of government strategies to combat the pandemic (Godwin, 2020), and citizens' willingness and ability to change their behaviours. That said, in most countries affected by the pandemic people have altered their behaviour significantly, stopped doing many things they usually did and staying at home more, with greater use of the internet. Furthermore, as governments variously took measures to ease the lockdown, lessening restrictions regarding social distancing and travel, patterns of behaviour changed again, albeit not necessarily or immediately back to pre-pandemic routines. And, currently, as further measures are introduced to counter a second wave, actions and reactions are again shifting.

It is therefore unsurprising that crime might be affected: both the propensity to commit crime and the risk of being a victim, and many criminologists have been engaged in assessing crime patterns.

This encouraged academics interested in situational influences on crime patterns to question the impact of changes in mobility on crime rates. For example, UCL (University College London) hosted an online symposium on Crime *and COVID-19* on 16 July and has a webpage dedicated to the subject, [3] and the European Society of Criminology 2020 e-conference devoted a number of sessions to the subject. [4]

The theoretical basis for much of this analysis is derived from routine activity theory (Cohen & Felston, 1979), rational choice theory (Cromwell et al. 1991) and crime pattern theory (Brantingham & Brantingham, 1984). While varying in their emphases, essentially these focus on opportunities: offenders' decisions to target specific property or persons, based on their knowledge and awareness of the target, and the availability and accessibility of an appropriate target.

Three aspects of the situation that make a crime more or less likely - an available victim; a motivated offender; and a lack of protection or guardianship - have been significantly affected by the pandemic, in terms both of individuals' choices and government restrictions. Firstly, the availability of victims was in many respects reduced. People were less likely to out in public, and since entertainment venues were closed, they were especially less likely to go out after dark. They were also less likely to use public transport. This suggests that less victims would be available to steal from (e.g. pickpockets operate best in crowds, especially public transport), and public disorder offences linked to alcohol misuse would be lower. Secondly, potential offenders might have been less likely to go out, especially with co-offenders. Thirdly, there might have been more police around if other policing duties were reduced and if the police were actively enforcing the lockdown. Most

3 See: https://covid19-crime.com/

4 See: https://e024fbf5-6c7b-4d28-a274-3ea640442f02.filesusr.com/ugd/7a9c76_507aed46833e4910b299e8dcb85c7c7d.pdf.

importantly though, is the question of self-guardianship and guardianship by passers-by or neighbours (Hollis-Peel & Welsh, 2014; Reynald, 2011). People spent more time at home which meant that their homes were better protected from burglars (who prefer empty houses), and they were better able to act as guardians of neighbours' property. On the other hand, there were less 'guardians' around in public places: less people in city centres meant fewer potential victims and offenders, but also less available witnesses/guardians. Moreover, the closure of many factories, shops and offices in city centres, shopping malls and industrial estates meant that these were potentially 'unguarded' 24/7. Consequently, while we might see a reduction in many offences, other might be more common. Whether this is a matter of displacement (Johnson et al., 2014), i.e. offenders continued to offend but changed their modus operandi, or whether these 'new' crimes were committed by different offenders, is a moot point.

However, alternative theories suggest that crime and disorder may not necessarily decline during lockdown. The fact that people have been restricted in their movements and the financial implications of the closure (permanently or temporarily) of many businesses is considered by strain theorists (Agnew, 1992) to result in increases in crime. Certainly, while not unambiguous, there is evidence that acquisitive crime increases as unemployment rises (Bennett & Quaszd, 2016; Raphael & Winter-Ebmer, 2001). Finally, alternative perspectives on COVID-19 and governmental responses, ranging from conspiracy theorists to those advocating herd immunity, combined with regional, ethnic and age-based disparities, have opened up schisms within societies and threatened notions of community solidarity.

Testing out the impact of COVID-19 and legal responses on crime and disorder is, however, fraught with difficulties. Firstly, official statistics are dependent on victims reporting crimes and the police recording them, and in many cases, like domestic violence or internet crime, they may not be reliable because a majority of crimes are not reported or recorded. In these circumstances, criminologists turn to victim survey data, but these are generally unavailable in the short term and in any case may be less useful for measuring changes in crime over short periods. One notable exception is in England and Wales, where a new Telephone-operated Crime Survey (TCSEW) was introduced to measure changes in crime levels after restrictions came into effect on 23 March 2020 (Office for National Statistics, 2020a). While this uses a somewhat crude before/after comparison based on two-monthly rates, it provides a useful supplement to official statistics. Secondly, up-to-date criminal statistics may be inaccessible. This will vary according to the country and within countries, but there are some ongoing studies in the USA, Australia, Canada and the UK (see below), among others. Thirdly, statistics are sometimes not detailed enough to allow us to identify subtle changes. For example, many police crime statistics fail to distinguish between domestic burglaries and break-ins to business premises. Finally, given

that crime rates are subject to seasonal variation and may be subject to shifting patterns, it is necessary to include data covering ideally three or more years.

Taking these limitations on board, researchers have found that some offences became less common while a few increased under lockdown.

Burglary is a useful example of changing patterns. Since homes were less likely to be empty at the height of the pandemic, residential burglaries might be expected to decline because burglars tend to target empty property (Mawby, 2001). But burglars who operate when householders are at home, notably distraction burglars (Thornton et al., 2005), may be more active, using the emergency as an excuse to gain access. Furthermore, where shops, offices, schools etc. were closed for longer periods, burglaries of businesses, storage facilities, schools and other public buildings might be expected to increase. These offences traditionally take place at night (Mawby, 2001) but may have become more common in the daytime. Most of the research confirms this. Domestic burglary rates have been found to fall (Ashby, 2020; Halford et al., 2020; Payne et al., 2020), although this did not seem to be the case in Los Angeles (Campedelli, Favarin & Aziani, 2020). In England and Wales, the Office for National Statistics (2020a) also reported a significant decline in household burglaries, reflected in both the TCSEW and police statistics. The TCSEW suggested that domestic burglaries declined by 72% during the lockdown period. In contrast, commercial burglary rates have increased (Abrams, 2020). In Vancouver, Hodgkinson and Andresen (2020) also identified an initial rise in commercial burglaries, but rates fell after police and business owners took countermeasures. While evidence on commercial burglary is limited, due to the restraints mentioned above, Felson, Jiang and Xu (2020) found a shift from burglaries in residential areas to burglaries in mixed use areas of Detroit.

As suggested previously, if less people are on the streets, robberies and thefts from the person may decrease. This is especially so for offences that require stealth, but lack of other pedestrians and traffic might mean that bag-snatching and robbery from the person by force would increase. Additionally, if people rely on more home deliveries, robbery from delivery vehicles might increase. Despite this, many studies report a decline in robberies (Campedelli et al., 2020a; Campedelli et al., 2020b), although there appears as yet little refinement *vis a vis* different types of robbery or any differences between theft from the person and robbery.

With regards to other thefts, closure of many shops has resulted in a reduction in thefts from shops, a pattern found in various countries, including Australia (Payne et al., 2020), the UK (Halford et al., 2020), and the US (Campedelli et al., 2020a). Less use of cars may mean a reduction in car-related crime, given that cars parked in urban centres are more vulnerable than those in garages, drives and residential streets (Clarke & Mayhew, 1994),

but thefts of bicycles may rise, and where social distancing means goods are delivered and left on doorsteps, thefts from doorsteps may increase. There is less evidence on these offences, although Payne et al. (2020) and Halford et al. (2020) found a decrease in thefts from cars. Perhaps surprisingly, the TCSEW also found a general decrease in thefts from members of the public., with a 73% fall in in the classification 'other theft of personal property' (Office for National Statistics, 2020a).

In contrast, internet-based crime might be expected to increase during lockdown. With people confined at home, dependence on the internet increased. Correspondingly, frauds through phone and internet would be expected to increase. These may be directly related to the pandemic (e.g. scams over selling face masks or COVD-19 testing kits), indirectly related to the pandemic (e.g. where customers are more dependent on purchasing goods online and are conned, where criminals offer government grants and loans, or indeed defraud the government through mis-claiming grants), or unrelated, as in the case of the plethora of money laundering scams that invite the reader to aid in the transfer of funds established by various former African leaders. Additionally, with schools closed and many working from home, children have been more likely to use the internet unsupervised, putting them more at danger of grooming. While there has been far less research on online offending, TCSEW data suggested an upward trend (Office for National Statistics, 2020a), and other UK and European sources also report an increase in online child abuse (BBC News, 2020a; EUROPOL, 2020; Romanou & Belton, 2020). Additionally, impressionistic evidence from across the world also suggests a rise in internet fraud and fraud linked to false claims by shadow businesses applying for government grants (Barth, 2020; Campbell, 2020; Lynch, 2020; Tett, 2020). One piece of research in the UK, by Buil-Gil et al. (2020) seems to confirm this. While only covering a 12-month period from May 2019-May 2020 and based on data from the website of *Action Fraud,* the UK National Fraud and Cybercrime Reporting Centre, they found a significant increase in various manifestations of cybercrime, including fraud associated with online shopping. Finally, and directly linked to increases in isolating, there appears to have been an increase in online dating scams (Sky News, 2020). [5]

Violence in public areas was expected to fall under lockdown, unless there were conflicts over shortages or social distancing around food shops, beaches etc. Correspondingly, analysis of data for violent offences, especially in public places, suggested a decrease (Ashby, 2020; Campedelli et al., 2020b; Payne et al., 2020), However, with more people confined at home, domestic violence might have been expected to increase, involving not just women but also children (NSPCC, 2020) and elderly parents. Strain theory supports this assumption (Agnew, 1992). Looking further at the relationship between those involved, we might expect domestic violence against those in the same household to

5 See for example: https://www.theverge.com/21366576/dating-app-scams-romance-women-quarantine-coronavirus-scheme.

increase, but domestic violence against those from other households (for example assaults by estranged or former partners) to decrease. The evidence for domestic violence is currently not detailed enough to take account of these distinctions. In Dallas, Piquero et al. (2020) noted a short-term rise in police reports but no long-term trend. Other, less systematic, evidence suggests that while there is no clear pattern for violence in private residences, at least according to police figures, calls to Women's Refuges and Helplines has risen dramatically, indicating that women attacked in their homes may feel trapped and unwilling to involve the police but more likely to seek alternative solutions (BBC News, 2020b; Bradbury-Jones & Isham, 2020; Graham-Harrison et al., 2020; Taub 2020; Townsend, 2020a; Usher et al., 2020; WHO, 2020) (see also: Romanou & Belton, 2020).

This suggests a distinction between violence in private and public space. However, when restrictions were first put in place, and as they were partially lifted, there are indications that many types of violence and antisocial behaviour may have increased. The TCSEW, for example, noted that around one-fifth of adults thought that anti-social behaviour levels in their local area had decreased during the pandemic period, but just over half reported that they had noticed others breaching virus restrictions in their local area since the virus outbreak. Moreover, since restrictions were eased violence and antisocial behaviour had increased (Miner, 2020) as in Spain (McNeill, 2020). Of course, there may have been a further increase in offending where people have been charged with breaking the laws restricting and controlling behaviour during the lockdown. Again, there are variations between countries, both in the nature of the restrictions – travelling long distances, wearing facemasks, social distancing etc – and also on whether these restrictions are advisory or mandatory. However, as we roller-coast in and out of lockdown the potential for interpersonal conflicts has increased. In England, partial easing of the lockdown was met by hordes of day and overnight visitors to rural areas like the Lake District and coastal areas like Devon and Cornwall, provoking a hostile reaction from local people who felt that population movement was increasing the risk of transmission from high to low rate regions (Gold, 2020; Smallcombe, 2020). This subsequently led to targeted vandalism of cars and second homes and in some cases violence. Antisocial behaviour and public disorder have also increased in tourist areas and areas catering for the NTE. We have also seen altercations over social distancing, wearing facemasks etc, involving attacks on the transgressors or attacks by the transgressors on those attempting to enforce new regulations (Ng, 2020; Simcox, 2020; Robinson, 2020; Willsher, 2020). There is certainly the potential for interregional or intergenerational conflict or escalating hate crime.

That said, the indications are that in general crime rates fell during lockdowns. However, this did not apply to all offence types nor indeed to all areas. Studies in the UK (Farrell, 2020), Australia (Payne et al., 2020) and the US (Abrams, 2020; Campedelli et al., 2020b) demonstrate marked variations by area. There is some suggestion that lower crime, higher status areas might have seen a more marked decrease (Campedelli et al., 2020b), pos-

sibly indicating that offenders, who traditionally travel short distances to commit their crimes (Wiles & Costello, 2000) have become even more reluctant to travel. In Lancashire (England), however, Farrell (2020) notes an increase in anti-social behaviour offences in rural areas, which may indicate both an increase in fly tipping when legal refuse sites were closed, and problems caused by visitors/day trippers.

Policing and COVID-19

What then are the implications of the pandemic for the police and policing strategies?

The simplistic answer would be that if crime rates are falling, pressures on the police would be reduced. However, this ignores the fact that the police are having to adapt to new situations, at a time when as front-line workers the threat to their health is unknown but potentially serious.

Surprisingly, there has been less academic attention paid to policing (for exceptions see: Grace, 2020; McVie, 2020; O'Neill, 2020; Sheptycki, 2020), albeit this was addressed in the recent ESC Conference (McVie, 2020; Nogala, 2020; Roché, 2020). This is, moreover, more a case of speculative debate that actual research. Thus, a review of one crowdsourcing platform, *Prolific*, indicates a plethora of studies addressing the way the pandemic has affected behaviour and attitudes towards safety, but scarcely a mention of how the public perceive the role of the police during lockdown. One notable exception is the TCSEW that includes questions on public perceptions of policing under lockdown. This revealed that in England and Wales during August 2020, 91% of adults were satisfied with the way local police were responding to the coronavirus outbreak and that there was general support for police powers that were available to help enforce new laws, such as police issuing on-the-spot fines to people they found out of their homes without a good reason (72%) and police-enforced curfews (67%) (Office for National Statistics, 2020b). Alongside this, the government's Opinions and Lifestyle Survey (OPN) covering the same period found that 69% of adults thought that the police should be very strict or strict in enforcing the new rules, albeit only 15% thought the police *were* enforcing the rules strictly (Office for National Statistics 2020c).

This data, of course, is limited to England and Wales. However, despite increases in policy transference in an increasingly global world (Jones & Newburn, 2006a) there are marked variations between nations in both legal and police systems (Mawby, 2018). Moreover, just as the extent of COVID-19 and the health- and economic-based responses have varied between countries, so legislative and policing responses have differed (Godwin, 2020; Roché, 2020).

Various commentators have pointed to key differences in the functions, structure and legitimacy of the police in different countries (see Mawby, 2018) to draw comparisons between police systems that are more control-oriented and those that are more service-oriented. In the former, clearly, non-democratic police systems have been decisively used to enforce the policing of health initiatives, whether through advanced technology, in the case of South Korea (Dudden & Marks, 2020) and Russia (Magnay, 2020; Rapoza, 2020; Reevell, 2020; Roth, 2020) or through more traditional militaristic or ideologically dominated police institutions: here, examples from Russia, Saudi Arabia (The National, 2020),Iran (The New Arab, 2020),Iraq (Watkins, 2020), the PRC (Aljazeera, 2020; Li, 2020), illustrate the refocusing of already powerful police systems on enforcing new 'lockdown laws'. Similar examples can be found in the EU, where relatively new democracies may use the pandemic to hasten a return to more traditional control-dominated policing, Hungary being a case in point (Williamson, 2020).

Within Europe, despite recent convergence there are considerable variations in police systems (Mawby, 2018) and public attitudes towards and trust in the police (Schaap, 2018), and variations in the extent to which community policing has become embedded in police philosophies. However, in some ways policing the lockdown has underscored historic concerns about the reality of democratic policing. The philosophy of community policing thus almost inevitably glosses over the fact that societies are comprised of a multitude of communities, with different lifestyles and priorities as well as different histories of police-public interaction. Policing during the pandemic inevitably raises issues concerning whether communities are being policed equally (Grace, 2020). Given the primacy of the Black Lives Matter (BLM) movement and the unequal impact of COVID-19 on BAME communities (Public Health England, 2020), ethnicity has been a focal point of critiques of the discriminatory application of new police powers (Amnesty International, 2020; Boffey, 2020). But differences according to, *inter alia,* age, class and region are also important. The example of German police enforcing a blockade to prevent residents, many COVID-positive, leaving a tower block (BBC News, 2020d), is typical of many police actions across the world where social, structural and economic inequalities interact with health risks and law enforcement in a viscous circle.

However, before we follow those like Sheptycki (2020) in viewing the pandemic as a toehold towards more authoritarian and totalitarian police systems, it is important to recognise that alongside the concerns of more radical organisations like Amnesty International (2020) and Human Rights Watch (2020) much of the hostile reaction to lockdowns has been orchestrated by the hard right, with liberal support for increased police powers and more proactive policing, as long as it is proportionate, fair, and time-limited. Moreover, while the extent to which the police throughout the UK have used their new powers varies markedly (McVie, 2020), there is no evidence that the police have embraced them

with any enthusiasm. It is perhaps, then, appropriate to consider ways in which police practices have changed, and how this is likely to apply in the long-term.

Overall, it is clear that police and policing has been impacted in at least three ways:

- *Enforcement of new legislation*. In almost all societies affected, new laws have been introduced to control, among other things, use of public and semi-public space, mobility, and wearing of facemasks (Godwin, 2020). While these are not always unambiguous – the England example being a case in point (Casciani, 2020; Davies, 2020; House of Commons Library, 2020; Kestler & Fowles, 2020; Martin, 2020; O'Carroll, 2020; O'Neill, 2020; Townsend, 2020b) - this does create a new pool of offenders and also potential new trigger points for conflict between the police and public (Burke, 2020; Cave & Dahir, 2020). It also creates schisms between different factions of the public who think that the police are exerting too much or too little control. In the short-term, clearly the police need to use their new powers to 'police health' in ways that are fair and proportionate, according to the core principles of community policing (O'Neill, 2020). In the long-term, it is crucial that such powers are maintained for no longer than is absolutely necessary.

- *Use of new strategies*. Two strategies used to police illegal movements have been the use of drones and smartphone technology to plot transmission of the virus. In the former case, the police use of drones, in Paris (Schippers, 2020) and Yorkshire (Pidd & Dodd, 2020) proved controversial and was stopped, unlike in Russia (Rapoza, 2020). In the case of smartphone technology (a notable failure in the UK) in contrast, the technology has been introduced to track the disease but what was less controversial in more authoritarian regimes such as South Korea (Dudden & Marks, 2020) has raised concerns among the public regarding its retention and future use by policing agencies against known offenders and terrorist suspects (Human Rights Watch, 2020). The use of advanced technologies in Russia, for example (Reevell, 2020; Roth, 2020) is a salutary reminder of such dangers.

- *Deployment of new personnel*. In public space, many local governments have introduced new units to control public behaviour. These essentially are a reinvention of plural policing developments that expanded at the beginning of the century (Jones & Newburn, 2006b; Mawby, 2008; O'Neill & Fyffe, 2017) but were curtailed with cuts to policing budgets. For example, in parts of England street marshals have been employed to advise and encourage social distancing (BBC News, 2020c). In France, rather bizarrely, hunters and gamekeepers were briefly recruited to enforce restrictions to movement (Bock, 2020). These agents may have limited powers, but they can call on the public police for assistance. In contrast, in introducing the requirement for shoppers to wear facemasks, the English government has made it clear that the responsibility for policing in shops lies

with the shops' management. This widens the duties of store security guards, but also adds a new onus of responsibility for small shopkeepers. Additionally, there are calls on the public to exert their influence by reporting neighbour-transgressors, adding a new layer to the guardianship concept discussed earlier (Hollis-Peel & Welsh, 2014; Reynald, 2011). Overall, though, we have a policing responsibility conferred on many who did not ask for or want it. While the UK government has emitted mixed messages regarding moral obligations to report lockdown transgressors (Hinde, 2020), unsurprisingly there is a reluctance among shopkeepers to 'snitch' on customers and residents to 'snitch' on neighbours, and where they do, as noted above, this may accentuate conflict.

Clearly the police in different nations have had to adjust to a different crime and disorder context, with many crimes decreasing but others more common. At the same time, additional responsibilities mean that they have been engaged in different contexts, involving both peace keeping and control, often with minimal guidance and an ambiguous legal foundation. The situation is perhaps even more contentious for others drawn into the policing process, invariably with even less legal guidance and often without any willingness to inhabit the 'front-line'. For the public police, though, policing the pandemic has inevitably led to conflict with different publics with different perspectives on the threat posed by COVID-19, the moral and legal bases for lockdown, and views on rights of movement. At present there appears to be rather less research addressing police/public relations than there is on the impact of the pandemic on crime, but it is arguable that policing the pandemic will have at least as great a long-term impact.

In Conclusion

So, in conclusion, I'd argue that the pattern of crime has changed during the coronavirus pandemic and that in general there has been an overall decrease in crime. But these changes will vary both between offense types and between countries depending on different governments' responses to the pandemic. The way the public respond to lockdown and the subsequent easing and then reinforcement of restrictions combines with the way the lockdown is policed, is also important to consider, and will inevitably vary between countries and regions within countries.

This raises two final questions. Firstly, how far have policing strategies been adjusted to respond to changing patterns of crime and disorder? Clearly this varies between countries, as does the likelihood that new powers for policing health will be maintained and justified through new 'threats' post-COVID. Secondly, how will crime readjust after the pandemic: will displaced crimes be replaced or will new crime patterns persist? Essentially, future research needs to address the twin questions of whether crime and policing will attain 'new normals' as the pandemic subsides.

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LIMITATIONS IN CROSS-NATIONAL COMPARATIVE RESEARCH: Problems faced when comparing police personnel statistics

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Abstract
The Mass Media in Cyprus announced that according to the Eurostat (2019) "Police, Court and Prison Personnel Statistics", Cyprus has the highest ratio of police officers per 100.000 inhabitants among all EU member states. To examine this outcome, the Cyprus Police conducted cross-national research comparing the organisation's population and duties with those of other law enforcement agencies in the European Union. This article will elaborate on the limitations of cross-national comparative research, which the authors came across during the study, as mentioned above. It will argue that even a subject as straightforward as the number of police officers is not directly comparable between countries in terms of necessity or efficiency, without taking into consideration the particular context of each given country. A quantitative comparison, which does not explore the background and contextual information on law enforcement agencies in each country, can be questioned with regards to severe methodological issues, while its outcomes run the risk of being regarded as misleading.

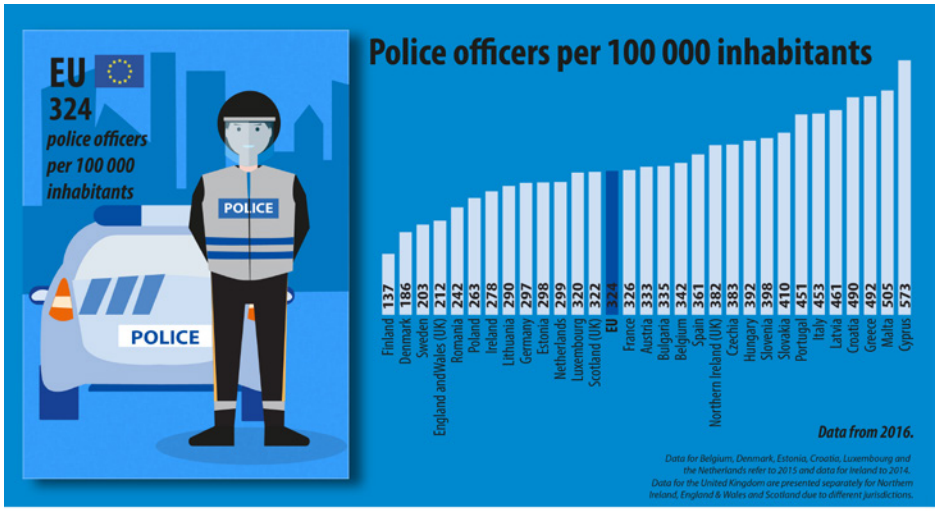
Keywords: *Eurostat, Comparative Research, Limitations, Police Personnel*

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Introduction

According to Eurostat (2019), as presented in Graph 1 below, Cyprus has the highest ratio of police officers per 100.000 inhabitants among the EU countries. This fuelled the ire of the mass media in Cyprus, and consequently of the public, which turned once more against the Police. The matter is not new, as Cyprus was presented in the past as having one of the highest percentages of Police population (Euronews, 2014). Yet, every time such statistics are released, the media sensationalise the issue. To explore and further understand this phenomenon, a cross-national study was conducted to compare the population and duties of Cyprus Police with those of other EU law enforcement agencies.

Graph 1: Police officers per 100.000 inhabitants, as presented by Eurostat (2019) "Police, Court and Prison Personnel Statistics."



The study came across several challenges. It soon became apparent that total numbers are not directly comparable when it comes to cross-national research. These limitations apply even if the matter is viewed in a strictly quantitative manner, such as the figures of human resources.

Initially, the study addresses fundamental issues regarding the background and the developing nature of the structure of the Cyprus Police. The methodology and findings follow, ending with a discussion of the limitations confronted and their origins. Several factors, which should be taken into account in studying and comparing the workforce of law enforcement agencies, will be examined, including organisation, legislation, definitions, duties and capabilities.

Background

The human resources of a police organisation evolve, among other things, through the historical and the cultural junctures occurring during the development of the organisation (Gruszczynska et al., 2008). An example of this is the background of the development of the Cyprus Police.

After the establishment of the Republic of Cyprus in 1960, two independent law enforcement agencies were set up based on the already existing police force of the British Colonial Government. The Police Force and the Gendarmerie were responsible for policing the urban and rural areas, respectively. Not before long, in 1964 the two forces merged after the abandonment of the posts held by Turkish Cypriot officers. The Force went through some massive changes during the following years, after important events, such as the Turkish military invasion in 1974, the expansion of the tourist industry, the opening of four crossing points to and from the occupied areas in 2003 and five more in subsequent years, as well as the accession of Cyprus to the European Union in 2004. These changes have led to increased demands on the Police, especially in terms of personnel. Thus, the workforce climbed from 2,000 men for both the Police and the Gendarmerie in 1960, as foreseen in the Constitution of the Republic of Cyprus (Article 130), to 5,360 male and female police officers in 2008.

However, the organisation, the structure and the human resources of a law enforcement agency are not only affected by historical and political facts in a given country, but also by the way the Police is conceptualised (Jobard, 2014).

The Cyprus Police exercise its powers "throughout the territory of the Republic to maintain law and order, preserve the peace, prevent and detect crime and arrest and bring offenders to justice. To carry out such duties, members of the Police are authorised to carry arms." (free translation of Article 6, Cyprus Police Act 73(I)/2004). The letter of the law is evidence of the wide range of responsibilities cast upon the Police. It could be an example of what Millie (2013, p. 145) refers to as "wide policing". It includes not only reducing and combating crime, which is mainly "narrow policing" tasks, but also addressing people's fears and reassuring them. Their mission can be described as a mixture of social control, preservation of the peace and social welfare (Millie & Herrington, 2014).

This is similar to what happened to the law enforcement agencies in England and Wales when the spectrum of their functions over-grew. Police officers came to act as probation officers, social workers, educators and even escorts, in addition to their more traditional role. Besides, it used to be common for the police to take up non-criminal-justice duties. Since as far back as the 19th century, they have had to deal with the implementation of legislation about the consumption of alcoholic beverages, education, cruelty against an-

imals and many more. Today in England and Wales, these duties are performed by public services, other than the police (Millie & Herrington, 2014).

Recent internal studies by Cyprus Police attempted to identify wide ranges of non-crime-related responsibilities assigned to their authority. It has been shown that a large number of the workforce is also occupied with duties that are not directly related to criminal law. These duties, which mainly derive from the police organisation's involvement in the implementation of the legislation concerning the National Army, the Civil Defence, immigration, private security, environmental protection, animal welfare, hunting, gambling, noise and alcohol control, fundraising and charity campaigns, psychiatric health, smoking, pharmaceutical law, electricity and energy, human resources and labour regulations, education, copyright and intellectual property laws, tax and social insurance, real estate, currency, tourism, market regulations, just to mention the best known ones.

Constantinou (2017) estimates that police officers in Cyprus spend more than 1,5 million working hours on non-criminal-law related duties every year. This figure is equivalent to the annual employment of 918 people, or to 20% of the work time of a police officer at a typical police station in Cyprus. Furthermore, the lack of civilian personnel means that police officers hold posts of a supporting, administrative-like, nature. The same study pointed out that a total of 797 Cypriot police officers are placed in various departments in charge of duties that do not require any police powers and could easily be performed by public servants or civilian personnel, such as administrative tasks like filing, accounting and clerk duties.

Similarly, Lagou et al. (2018) calculated that in 2016 a total of 104,171 working hours were spent enforcing legislation concerning tobacco smoking, the control of alcoholic beverages consumption, animal welfare, beach protection, the monitoring of fundraising and charity campaigns, the regulation of the operation of private schools, shops, restaurants, clubs and bars and many others, as mentioned above. The implementation of such legislation is mainly assigned by law to other public services and departments in Cyprus, focussing in their specific fields. However, as these departments only work during office hours and are relatively understaffed, the work that strictly falls within the framework of their operations is carried out by the police, leading to an additional burden on the already heavy police workload.

As described by Ratcliffe (2008, p. 15), this phenomenon is distinctive of the swift observed in the UK and the US from a *"preventative model of policing"* to proactive policing, the police have come to prioritise their actions towards service-response and crime-fighting, instead of crime-prevention and peace-preservation, as it used to be declared since the appearance of the modern policing agencies. The public expects the above from the police nowadays, leaving only limited time for preventive strategies. The establishment

of this *"standard model of policing"* (Weisburd and Eck, 2004, p. 44) which included the increased demand in service and paper-work, along with the abrupt rise in crime numbers since the 1970s and onwards, was used as leverage by law enforcement agencies to call for more officers and resources. Although their request was fulfilled, the personnel increase never met the increase in crime rates, leaving a *"demand gap"* between public expectations and provision of police service (Ratcliffe, 2008). This fact has often been used to criticise law enforcement agencies over their resources and personnel allocation. Therefore, police managers urged to overcome the challenges but not merely by increasing their staff, that has, in fact, strict limits, but also by a transition to more effective policing models (police reform), extensive use of intelligence, risk mitigation approach, modern technologies and with continuous development of law enforcement methodologies. (cf. Ratcliffe, 2008, pp. 15–40.)

Methodology

To make comparisons between the number of police officers in Cyprus and other EU countries, the following methodology was employed.

Firstly, the police personnel fluctuation was examined statistically over time. The analysis used both Eurostat Metadata (2019) and data published by the Cyprus Police Administration and Human Resources Department for the years 2008-2016. The comparison included all the police organisations of the 27 European Union member states, as well as all the constituent countries of the United Kingdom, separated in three groups: England and Wales, Scotland and North Ireland. Their personnel numbers were analysed in terms of their increase, or decrease, between the years 2008-2016.

Secondly, a survey was conducted to determine what is included in the policing spectrum in EU countries. The questionnaires were disseminated to the Member States' Europol Liaison Bureaux, returning responses from Lithuania, the Czech Republic, Estonia, Germany, Slovakia, Denmark and Latvia. Unfortunately, some were only partially completed, evidently due to the complexity of the issue. The gaps were filled using triangulation and additional secondary data from supplementary national official sources, studies and international bibliography. The result was a numeric comparison between Cyprus and ten other EU countries, namely Slovakia, Latvia, Lithuania, Estonia, the Czech Republic, Denmark, Germany, England and Wales, France and Greece, in terms of typical duties carried out by the law enforcement agencies of the countries involved, their organisational structure and personnel distribution.

Findings

Cyprus Police was found to employ a total of 5.360 officers in the year 2008. This number gradually dropped to a total of 4.860 in 2016, recording a decline of 9.3% in terms of the total population of the Cyprus Police personnel.

As for the ratio of police officers per 100.000 inhabitants during the period 2008-2016, various trends among the compared countries were identified. While countries such as Greece and the Netherlands showed an increase of 39% and 38% in police population respectively, others had a decrease of 25%, 22% and 20% (Bulgaria, Northern Ireland and England and Wales respectively). Cyprus ranked fourth out of those with the highest decrease of 17%. At the same time, the mean number of police personnel increased by 2% in Europe.

The different trends among EU countries were also confirmed by the data derived from the conducted survey. During the analysis, it became clear that each law enforcement agency has a unique set of duties, structure and personnel allocation, precisely due to their national legislation, current strategy and policing model and developing resource capacity.

In some cases, the police appear to partially implement legislations that do not directly relate to criminal law, such as those regarding animal welfare, alcohol control and environmental protection. In others, the police have a supporting role, assisting the competent authorities, like in the case of police escorting mental health patients, after their examination by the Mental Health Services. Their involvement appears to be due to security reasons, without any further requirements by the involved services.

Likewise, the police service in each country has a unique composition and personnel distribution. It should be stressed that many populous, and of course significant, departments belonging to Cyprus Police are not regarded as law enforcement agencies, nor a part of them, in other countries. Some examples are the Prosecution Office, the Nautical and Marine Police, the Central Intelligence Department and the Fine Collection Unit, which are incorporated in Cyprus Police. At the same time, in other Member States such departments are independent or they operate either as stand-alone agencies or as part of other organisations.

Moreover, a lot of EU law enforcement agencies employ a large number of civilian personnel in support of police officers. In some instances, their workforce might include a percentage of up to 41% of civilian personnel, as in the case of England and Wales. These supporting resources are not included in the total number of personnel for the agencies employing civilians. On the other hand, police organisations like the Cyprus Po-

lice, have none or very few people working without being identified as a member of the police staff. Eurostat includes all of them, even though they might perform the same tasks, as those performed by civilians in other agencies.

Furthermore, the departments and units making up what is considered to be the Police Service in Cyprus, in some other countries, are part of many different law enforcement agencies and services. Populous and large Member States, usually having a federal structure, have predictably more than one national police force, each assigned with different territorial responsibilities. Other countries have one unified National Police Service accompanied by a central and many regional and local subsidiary forces. In others, there are additional autonomous units with similar or little police powers, such as the municipal, or border police functions, which are responsible for a variety of specific tasks, some of which have little or no relations to criminal investigations.

In Cyprus, some large municipalities have units dealing with the breach of several regulations regarding noise and animal control or minor traffic offences. There is currently an ongoing attempt to reform the services of local authorities, which also foresees the founding of municipal law enforcement agencies with powers to impose penalties on more than 60 offences. However, this reform is heavily debated up to this date, leaving these responsibilities again to Cyprus Police.

After identifying the corresponding variations as described above, regarding each country's differences according to in terms of their duties, departments and numbers of police and civilian personnel, the proportion of police officers per 100.000 inhabitants was recalculated. Subsequently, the resulted ratios showed closer proximity between Cyprus and each country.

The study, based on respective duties and type of personnel for the EU member states, has shown that the ratio of police officers per 100.000 inhabitants in Cyprus is estimated to be lower than the results published by Eurostat (2019) by a range of 2%-28%. Specifically, the equivalent proportion would notably be reduced and got closer to the EU mean measured by Eurostat, if the differences in duties, structure, and personnel allocation were considered. Nonetheless, it was established that, when it comes to cross-national comparative research, the distinct national parameters must have seriously been studied; otherwise the outcomes can be misleading, as it happened in the case of Cyprus Police and the announcements in the local mass media.

Discussion

Cross-national studies have gained notable popularity during the past few decades. Their results often become a basis for the introduction of new policies, which, as stated by Karakioulafi (2004), increases their "commercial value" in political and journalistic terms. Hence, following the Eurostat result (2019) on "Police, Court and Prison Personnel Statistics", interest grew for one more time.

However, the limitations of cross-national research must be taken into strong consideration in every such attempt, especially with regards to the analysis of policing matters. Although the study as mentioned above, was proven to be effective in terms of its aims, it became apparent at every stage of the research, that cross-national comparison is not as simple as it might appear. There are much fewer comparisons between the Police Services in the countries of the EU, or even between those of only 11 of them.

When examining police organisations and their members, it is crucial to determine what exactly the term "police" involves and who qualifies to be included in it (Bayley, 1992). Eurostat (2019) itself correctly and clearly states that every participating country organises its law enforcement services differently, according to their local needs, capabilities and priorities. Also, Eurostat recognises the fact that each country has different criteria for those qualified to be called "police officers" and for what is to be called "police work".

Furthermore, the correlation between raw data can be problematic. Since each country has its database, with the different collection, handling and archiving methods, the data might not be directly comparable. The collected figures might ignore many problematic aspects, such as specialised roles, positions in particular units, or even vacant ones, that can also occur misleading results. The process also between collecting the data and sharing them, up to the point of the final analysis and interpretation involves further difficulties, which include conceptual differences in terminologies, various mediators and bureaucracy according to the given country's regulations and organisation. This complexity and heterogeneity between the EU countries undermine the extraction of safe conclusions through the direct comparison of such absolute numbers.

The Eurostat's reference to metadata (2019) demonstrates the degree of deviation. Although Eurostat provides a definition, to facilitate homogeneity in the collected data, the expected uniformity is still absent. Each country explained in detail what was included in their figures; however, the statistics were still not homogeneous because some countries included their cadets, while others reported both full-time and part-time personnel. Another group also appears to exclude services, such as the military and judicial police. Moreover, not all countries provided explanatory comments. Even then, it cannot be taken for granted that their mentioned numbers are directly comparable to each other.

This observation became apparent during the data collection stage and analysis by the authors. It was also acknowledged in the presentation of Eurostat's results for 2019 but conveniently was not referred to in the coverage given to the issue by the mass media in Cyprus.

The issue elaborated here is similar to the crime statistics problem. Indeed, a key finding of the European Commission Review (2011) of EU funded projects concerning crime and deviance, was that *"Comparative crime research at EU level has not achieved maturity yet"* (p. 3). The reason lies with the numerous different methods employed by each Member State for the collection and processing of statistical information. The Review also adds that a holistic approach is needed to improve data integrity (European Commission, 2011).

Besides statistics, the data's diversity on police personnel derives precisely from the aspects studied in the presented research. Each country's law enforcement agency has its strategic planning with its complex organisational structure. The numerous and various departments undertake miscellaneous tasks that differ according to national legislation, regulations and priorities. Some functions that can take up a fair share of the time and energy of the workforce might not even be crime-related issues. Thus, the number and distribution of human resources are uneven across countries, while the staff may also be employed under different regimes.

Furthermore, another issue that has not been explored is the differences in the capabilities of each country, meaning the public sector's infrastructure. This may include, among other things, the technical and logistic resources, the available technology used and the one that is intended to be used in the future, the automation and computerisation of operations, the legal framework and other internal bureaucratic processes. The measurement and comparison of these aspects for each different country can be a time-consuming and challenging task. Nevertheless, these continuously developing factors affect the needs in terms of human resources, not only in the case of a law enforcement agency but of almost every public organisation.

Moreover, local and international developments create new realities and consequently, unique needs that law enforcement agencies must meet. Globalisation, a turbulent political situation in countries around Europe, irregular mass immigration, a growing population in some countries and ageing societies in others, a recent debt crisis, austerity and the emergence of many new forms of crime generated new challenges for the police and increased the expectations of the public. Significant changes will continue to occur, and each country will experience them differently. Thus, police organisations are required to continuously find ways to reform and adapt to meet new objectives and allocate their workforce accordingly. Such a project proposal is already under study in Cyprus.

On the other hand, in the case of cross-national comparative studies, their research value cannot be argued. Despite the limitations discussed, a lot is gained through their outcomes. However, the elements presented above are needed to be taken into consideration when it comes to law enforcement agencies. It is strongly advised for the particularities of the countries under comparison to being studied. Firstly, the form of a state, whether they are unitary or federal, as well as their size, population density and geographic peculiars, affects the structure of the governmental agencies, the interrelation amongst them, as well as the responsibilities assignment. Next, the division of work assignments between the executive, administrative and supporting departments, should be defined within an agency, and then the size of the workforce allocated to each task. Unquestionably, the total workforce size matters, but there must be separated figures for the personnel according to their employment position and status. Here, the importance of definitions must be reminded, as the term "police" can contain a variety of notions, and different responsibilities can be assigned to law enforcement agencies. Lastly, as already stated, the fundamentals consisting a state itself, the history, culture and current political and economic realities cannot be disregarded. Besides, the researcher must acknowledge that those were the ones that shaped the subject under study.

Conclusion

Cross-national comparative research is undoubtedly a difficult task. Eurostat itself recognises the methodological limitations arising from the discussion above. An analysis strictly based on total numbers, as forthright as it might seem, can underlie biases. Hence, an object of interest, such as the population of the workforce of law enforcement agencies, cannot be studied without taking into consideration the specific features of each country's background and special characteristics. Any extreme result must be further examined, additionally, by the country's specific geopolitical and socio-economical conditions.

In the case of Cyprus, the local media chose to present and comment on only the strict descriptive statistics of the number of police officers in EU countries. Most ignored Eurostat's comments and limitation acknowledgements, which would give a better understanding of the statistical variance. But again, the selection and presentation of the news by the media, as related to the police, is yet another interesting issue for further study.

However, the fact that progress has been made in addressing methodological issues cannot be ignored. National experts come together under the umbrella of the Council of Europe, to provide a systematic analysis on crime and criminal justice statistics regularly in the relevant European Sourcebook. Still, one is advised to proceed with extreme caution, when interpreting statistical data derived from different countries (Aebi et al., 2014).

Therefore, in carrying out similar research in the future, a collaboration between key stakeholders from each participating country should be sought. Here, as the goal was to compare the number of police personnel in EU countries, a survey for primary data was conducted through the Europol platform. Regardless of the limitations, responses led to useful insights explaining individual differences and similarities. The numerical comparison resulted in a better representation of the actual situation.

Nevertheless, comparative cross-national research into law enforcement agencies, or police service matters in general, should also have a comprehensive and multi-level approach which addresses national realities. A single researcher usually does not have the time or the means to acquire such knowledge in full. In contrast, knowledge of each nation's particularities in terms of police organisation, operation and relative legislation might only be partial (Karakioulafi, 2004). Well established conclusions can only be reached through a common aim to advance knowledge and the adoption of an organised common approach to cross-national research and collaboration.

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CONFERENCE CONTRIBUTION

THE EUROPEAN CODE OF POLICE ETHICS
20 YEARS ON - A VIEW FROM A TRAINING ANGLE

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Abstract:
This article is based on a conference contribution as presented by the author[1] on behalf of CEPOL- the EU Agency for Law Enforcement Training, to the Council of Europe conference on the role of police in democratic societies[2]. Following a historical examination of the context leading to the publication of the European Code of Police Ethics against the backdrop of the 2004 EU Enlargement after the decade of reforms in the countries of the former Eastern European block, the article examines the importance and the challenges of fundamental rights and police ethics from a training viewpoint, considering the changing landscape of policing in democratic societies.

Keywords: *Police Ethics, Enlargement, EU, Training*

Introduction

It was on 19 September 2001, just a few days after the fateful events known as 9/11, that the explanatory memorandum on the European Code of Police ethics set the scene for the approval, by the Committee of Ministers of the Council of Europe, of a document that could be defined as the blueprint of European policing. But while the whirlwind of

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2 "The police role in a democratic society: European code of police ethics, nearly 20 years", 20-21 October 2020 (https://www.coe.int/en/web/human-rights-rule-of-law/police-conference2020).

emotions and preoccupations of 9/11 was probably very prominent in the policy maker's minds- it was understood immediately in the collective conscience as a watershed moment- another set of considerations must have led the elaboration of that milestone document. This was notably the looming 2004 EU enlargement process as well as the progressive building of a space of freedom, security and justice in the European Union.

The Memorandum states those considerations in no uncertain terms:

"It could not be more timely. Many European countries are reorganising their police to promote and consolidate democratic values. They are also concerned to secure common policing standards across national boundaries both to meet the expectations of increasingly mobile Europeans, who wish to be confident of uniform, fair and predictable treatment by police, and to enhance their powers of co-operation, and hence their effectiveness, in the fight against international crime" (Council of Europe, 2001: p.1).

From the point of view of the European construction (which brings together the two historical parts of the European project as conceived at its very post-WWII inception; the European Communities and the Council of Europe) (Council of Europe, 2001b: pp.4-7).

These were, in fact, the years following the seismic shift generated by the 1995 Treaty of Amsterdam's setting up of institutions and mechanisms further projecting the European Union towards a more supranational approach to the concept of European security, triggered by the need to underpin free movement of persons with a series of measures to ensure its viability. Structured, and even institutionalised police and judicial cooperation measures existed before that, of course (think of the creation of the Europol Drugs Unit in 1995, the forerunner of today's Europol). However, the movement of certain policy areas from the third to the first pillar of the Union were an explicit recognition that the intergovernmental method was not fully suited to achieve the policy goal of building a common area of freedom, security and justice (AFSJ). While it would take another decade for the Lisbon treaty to take effect, Amsterdam was definitely the tipping point towards a more integrative approach in European internal security.

This integrative approach was however criticised in the public and institutional debate by some as being overly securitarian, and that human rights risked being left out[3]. The Tampere European Council of October 1999 was to further shape what the future FSJ would look like, and would take some of those concerns on-board, including the establishment of a body to elaborate a Charter of EU fundamental rights. The Council would also pave

3 Testimony of Mr Stephen Jakobi of Fair Trials Abroad to the UK House of Lords Select Committee on the European Communities in June 1999 (Select Committee on European Communities Nineteenth Report 1999).

the way for the evolution of Europol, the creation of Eurojust, and the establishment of a European Police College.

The role of Fundamental Rights in European Policing

The 1999 Tampere Council Conclusions stated that "the area of freedom, security and justice should be based on the principles of transparency and democratic control", and that the EU "must develop an open dialogue with civil society on the aims and principles of this area in order to strengthen citizens' acceptance and support. In order to maintain confidence in authorities, common standards on the integrity of authorities should be developed" (European Parliament, 1999).

The road to EU enlargement therefore had to pass through a debate on the democratisation and harmonisation of police practices across what was already a diverse community bringing together, among the pre-2004 EU member states, different approaches and models of policing. The policy and operational differences on key subjects such as asylum and immigration policy – a hot and controversial topic to this day- border controls, judicial cooperation in civil and criminal matters and police cooperation pre-existed the AFSJ area. With a good degree of foresight, the academic and policy debate identified the bumps in the road the enlargement process would elicit:

"The eastern enlargement is likely to add considerably to the existing diversity… because of the applicant countries' different institutional and structural basis, implementation capacity and standards, and policy orientations. A certain degree of diversity in justice and home affairs may be both inevitable and desirable as an expression of the variety of European legal, judicial and law enforcement cultures. Yet …. a failure to control and reduce the growth of diversity could jeopardise this most recent and ambitious integration project. It could not only undermine the development of the AFSJ but also cause serious disruption in the enlargement process. Without this coherence both the political momentum and the credibility of the AFSJ integration process could be lost" (Monar, 2000: p.7)

The accession of a number of new Member States coming from an extended period of authoritarian rule, often plagued by oppressive and violent policing underpinning those regimes or "nominal democracies" until the early 1990s. Reforms and restructuring efforts certainly were somewhat effective in cleaning up tainted institutions, but often made law enforcement structures unstable and unfocussed; the lack of resources rendered them often operationally unable to live up to a renewed mandate to serve the citizens and not uphold autocratic regimes. Profound renewal also meant a loss in institutional memory.

Awareness, let alone concrete measures to prepare accession in the areas of justice and home affairs came relatively late and were questionable from the point of view of efficiency and effectiveness. The European Commission's PHARE programme was able to provide more substantial resources for institution building and the areas of justice and home affairs only from 1998 (European Parliament, 1998).

However, albeit late the EU did act and particularly the Tampere Council provided a new impetus to the European agenda on justice and home affairs and the AFSJ.

Among the institutions created in Tampere, we have cited CEPOL, initially founded as a network of police training institutes with the aim of bringing together senior police officers from the Member States and the candidate (*applicant*) countries. During these first years of CEPOL's existence, its mandate was almost more culturally relevant that otherwise. Interestingly, the expressions "human rights" or "fundamental rights" were not used in CEPOL's first legal basis[4] (the legislators focussed on "democratic safeguards" and the "rights of the defence"). Nor, as a matter of fact, did the subsequent legal bases that underpinned CEPOL's transformation into a fully-fledged EU agency in the course of the next decades. Indeed, one would have to wait until 2015 to see the expression "human rights and fundamental freedoms in the context of law enforcement" written into CEPOL's founding act[5].

However, since its inception CEPOL has been active in providing fundamental rights trainings for police forces. Key courses are the multi-step courses on FR and Police Ethics, present each year in our training catalogue. Interactivity and real life simulations. By this, CEPOL seeks not only to raise awareness of reality and legal frameworks, but also to facilitate the identification of unconscious bias, and encourage self- reflection. Ethics is, indeed, primarily an exercise in self- reflection leading to establishing behavioural standards. It is those standards that can be properly addressed by training- if we accept the common definition of training as a set of activities seeking to modify and improve skills, knowledge and behaviour.

Challenges in Fundamental Rights training

The relationship between police ethics and fundamental rights is so tight that any difference is almost indiscernible. This does not mean, by far, that they do go hand in hand.

4 Council Decision 2000/820/JHA of 22 December 2000

5 Reg. (EU) 2015/2219 on the European Union Agency for Law Enforcement Training, art.3 (1)

The primary challenge that training in the area of fundamental rights and police ethics has to face is cultural. Police officers often perceive human rights as an obstacle to, rather than as the foundation of, their work (European Union Agency for Fundamental Rights, 2016). External scrutiny of a profession that is so often so taxing on those individuals that perform it, is also very often met with perplexity if not hostility.

In this context, the European Code of Police Ethics ("The Code") is a fundamental document: put into historic context it is no less than a Magna Charta of "good policing" on the background of recent and not so recent experiences with oppressive and unfair policing. In fact, the "Code" is one of the rare official attempts to move away from authoritarian police models towards "democratic policing" for democratic societies – democracy being understood in its "European" (Western) version at the time of the biggest EU enlargement. The "Code" covers the cornerstones of an ideal democratic, European police model addressing objectives, rule of law, position within general criminal justice, organisational structures, police action, accountability – and last and maybe least – independent research.

The scientific debate on the Code has flourished in the period 2001/2010, and then steadily declined. One of the reasons being that by default police organisations deal with operational matters first. The reflective discourse on policing has moved away from its democratic, value-based foundations and has shifted to other strategic policing areas: police reform and restructuring, cost efficiency and effectiveness, and of course the vast areas of organised crime and counter-terrorism. While this is understandable, it is clearly not good when institutional self-reflection goes into the background. We are actually seeing some of the shortfall as this piece is being written.

We need to better link fundamental rights training and ethics training with modern technology and the latest societal dynamics. Interactive, integrated training, large scale simulation exercises involving operations and exchange of data are the way to go as the EU gears up for a massive growth in IT security systems, most of which were coincidentally set up in the post-Amsterdam era. Against this backdrop, proper monitoring of the quality and weight of the ethics and fundamental rights components into law enforcement training is also very important.

How we measure and enhance the impact of fundamental rights inspired training is also very important. While CEPOL trains between 25 and 30 thousand officials a year, only a few can get in a classroom based Fundamental Rights training done at the EU level. At national level sometimes, the picture could be even bleaker since police budgets seldom provide adequate resources for training. More needs to be done to ensure ethics-based police and law enforcement training not only makes a dent, but is conducive to long

lasting and widespread change in individual and corporate mindsets and corresponding behaviours.

Conclusion

The discussion on police ethics is actual, and in the view of the writer, it should be framed within a wider discourse on public ethics that cannot take place within this article. However, a few considerations appear opportune. Widening the view to global developments, it is difficult to ignore that the institutions of liberal democracy as we have understood them in the post-WWII environment are evidently been placed under serious strain by the resurgence of nationalisms, populisms of all political colours, and a general impatience to the rational analysis of facts when they may contradict closely held views. Liberal democracy is predicated not only on laws, but also if not even more on the generalised acceptance of the "rules of the game", on the assumption that individual behaviours should conform to the overall parameters that these rules imply, and on the premise that even in the presence of strong disagreements, the values that ultimately make liberal democracies possible will uphold. Individual behaviours of public servants- such as police and law enforcement officials- are all the more important as they embody the very institutions they serve; unethical behaviours by public servants cause as much damage, if not more, to the individual victim as they do to society as a whole.

2020 is likely (and hopefully one might add) to see a revamping of the debate over police and LE ethics, as well as a revival of a serious, deep reflection on how to strengthen fundamental rights compliance by police and law enforcement structures in our changing societies. The times we live in so demand.

The impact of a pandemic unseen in 100 years; the implications around artificial intelligence on not only data processing but actual decision making, the impact of policing on rapidly diversifying societies impacted by mass migration are all factors that call for renewed attention to self-reflection in the law enforcement sector.

While no straight parallels can be drawn between the United States and Europe, the recent and acknowledged examples of structural racism and violence against detainees within security structures in European Union member states, as well as the democratic backsliding in certain EU Member States that is making the headlines, are all signs that we can by no means take good police ethics as a low priority, least as a given.

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ARTICLES

A PRACTICAL APPROACH TO EVIDENCE-BASED POLICING

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Abstract
Evidence-based policing remains misunderstood and under-appreciated. This article clarifies what it is, emphasizing its value in informing police practices in conjunction with experience, judgment, and craft knowledge. It also argues for a broad framework simply because policing has a broad mission. In other words, evidence-based policing is more than evidence-based crime control. Data, analysis, and the other tools of science can help police increase their effectiveness across the multiple bottom lines of policing.

Keywords: *Evidence-based policing; data; analysis; research*

This article presents the broad outlines of a practical framework for understanding and implementing evidence-based policing (EBP).[1] The framework is practical in the sense that it is understandable, feasible, and directly tied to making policing more effective. In other words, it isn't about collecting data for its own sake, or about doing research for its own sake. Rather, it is simply about serving and protecting the public as effectively as possible.

1 Corresponding author's email: gcordner@gmail.com
This article is adapted from introductory sections of a guidebook recently published by the National Institute of Justice, U.S. Department of Justice. The full guidebook is available at https://nij.ojp.gov/library/publications/evidence-based-policing-45-small-bytes

That said, this EBP framework is demanding, because the police mission is demanding. The framework identifies data that should be collected, analyses that should be conducted, and research that should be carried out, all for the purpose of making policing better – producing and then using the best available evidence when making decisions, developing policies, and designing programs and practices.

Policing is a broad function in a society that expects a lot from the police. The people who manage police organisations need a lot of information in order to know how well (or how poorly) things are going and what problems need attention. In addition, the public and political leaders want information by which to judge how well their police are performing, as reflected in the growing emphasis on transparency and accountability. Crucially, both police and their political superiors need a coherent framework that organises all that information into a manageable set of indicators that genuinely reflects the broad nature of policing and yet is readily digestible.

The framework is designed mainly with police executives and policy makers in mind, because they are most responsible for making policing as effective as possible. They have the strongest need for data, analysis, research, and evidence to help them make decisions that produce the best possible organisational results. They have to answer to the public and governing officials, and they are the ones who might lose their jobs if things don't go well. When a political leader asks a police executive, "How are we doing?" an off-the-cuff, vague response may not suffice. The framework presented here will help the executive respond with a well-documented, full-fledged answer.

Although the framework is primarily aimed at high-ranking law enforcement officials, it should be useful to a wide range of others. Within police agencies, middle managers, supervisors, and officers all make decisions and need to be as well informed as possible. Also, support staff, especially analysts and planners, are often the ones most directly involved in collecting and analysing data and evaluating programs. Outside of police, government managers, elected officials, public interest groups, and concerned citizens all have a role in holding police agencies accountable and will find the framework helpful in judging how effectively their police are performing.

Evidence-Based Policing (EBP)

Evidence-based policing is simply about informing police decisions and practices with the best available knowledge, much as doctors, nurses, engineers, counselors, teachers, and other professionals are informed by their own bodies of scientific information. It is important to recognise, however, that even doctors and engineers, despite working in well-developed professions, usually cannot just "look up" or "calculate" the right answer

for each situation they face. Rather, they have to draw on their experience and judgment, the skills of their craft, as well as whatever scientific knowledge that may be applicable, to diagnose and respond to the situation – and often, careful trial and error is still required before a satisfactory outcome is achieved (Tilley & Laycock, 2016). So it is with evidence-based policing as well.

To put it another way, there isn't an app, and there isn't going to be an app.[2] The complexity and unpredictability of policing guarantee that it won't all boil down to an algorithm. But there are lots of reasons to believe that making policing as evidence-based as possible will make it more effective, thus contributing to a safer and more just society.

What is Evidence-Based Policing?

Although the term "evidence-based policing" (EBP) has become well known, we should be clear about how it is being used. First, it is important to understand that it refers to scientific evidence, not evidence in the legal or investigative sense. EBP is the policing parallel to evidence-based medicine and fits within the broader categories of evidence-based practice, evidence-based decision making, evidence-based management, and so forth.

Lawrence Sherman (1998: p.2) is credited with coining the term evidence-based policing, arguing that "police practices should be based on scientific evidence about what works best." Similarly, Cynthia Lum and Chris Koper (2017: pp.3-4) recently asserted that "research, evaluation, analysis, and scientific processes should have a 'seat at the table' in law enforcement decision making about tactics, strategies, and policies." Their "seat at the table" analogy helps clarify that the best available evidence should *inform* policing, while acknowledging that there are other seats at the table too – experience, judgment, and law, for example.

Drawing on these perspectives, evidence-based policing can be defined as:

> Using data, analysis, and research to complement experience and professional judgment, in order to provide the best possible police service to the public.

This definition says that policing agencies and personnel should be informed by the best available scientific evidence as they go about identifying and understanding issues and problems, choosing responses, making decisions, setting policies, allocating resources, and enhancing employee wellbeing. Looked at this way, evidence-based policing is a no-brainer. It would be foolish and harmful for police to utilise practices that don't work, and unethical to knowingly disregard more effective ones (Johnson, 2019). It is safe

2 Actually, there is an evidence-based policing app at http://www.evidence-basedpolicing.org/. It provides a great deal of useful information but doesn't cover all of the "bottom-line outcomes" of policing or present the information in the kind of broad, systematic framework advocated here.

to say that every right-minded law enforcement official always makes what they believe are the best decisions.

What EBP suggests, however, is that sometimes police agencies do things a certain way because "we've always done it that way," without any particular evidence that it is the best way. Likewise, law enforcement agencies don't always devote much energy toward analysing and evaluating their practices, in order to figure out just how effective (or ineffective) they really are. Thus, it is quite possible that policing isn't as evidence-based as it could be, and to the extent that is true, police agencies aren't as effective as they could be.

Which is not to say that everyone in policing has to become a research scientist. A practical approach to evidence-based policing can be reasonable and balanced. For the most part, it's not rocket science. But it is about employing a scientific approach to making policing more effective.

Data, Analysis, Research, Evidence

Some versions of evidence-based policing (EBP) put all their emphasis on determining "what works," which leads them to push experimental research (randomised control trials, or RCTs) to the near exclusion of everything else. That approach has the virtue of what researchers call internal validity – a carefully done experiment produces the most valid conclusions about causation, i.e., whether A caused B (for example, whether a particular patrol strategy caused an observed decrease in street crime).

Experiments are quite useful in policing, but the perspective on EBP needs to be broader, for several important reasons:

1. Effective policing and police administration depend on knowing much more than just "what works." Information is needed to identify problems, analysis is needed to spot patterns and trends, and research is often needed to figure out why a new program wasn't implemented correctly, not just that it didn't work (Tilley & Laycock, 2017).
2. An important aspect of evidence-based policing is *using* the best available evidence. EBP is as much about properly utilizing research (and data and analysis) as it is about *doing* research.
3. A disadvantage of experimental studies is that their *external* validity is generally limited or unknown. Consequently, places where the experiment wasn't conducted can usually only guess whether the study's results would be the same in their jurisdiction.
4. Experimental studies can be fairly complicated, expensive, and time consuming. They aren't always practical for many law enforcement agencies, especially if there is a long wait to find out the results.

The broad EBP framework suggested here rests on four equally-important components – data, analysis, research, and evidence. A law enforcement agency wanting to be more evidence-based needs all four components:

- **Data** are needed about a wide array of conditions, both in the community and inside the agency, so that issues and problems can be identified, and performance can be monitored.
- **Analysis** is needed to figure out why issues and problems are occurring and to identify patterns and trends that the agency needs to address.
- **Research** is needed to evaluate the effectiveness of the agency's programs and strategies, including ongoing practices as well as newly implemented ones. Research is also needed any time an important question comes up and the answer can't simply be looked up or "Googled."
- **Evidence** is derived from the agency's own data, analysis, and research, as well as from studies done elsewhere. A law enforcement agency needs to cultivate its ability to find and produce evidence, weigh its credibility and relevance, and then use evidence appropriately to best inform decisions and practices.

The Limits of EBP

Before getting any deeper into evidence-based policing (EBP) and its components – data, analysis, research, and evidence – it is important to reiterate and emphasise that research and science don't have all the answers for policing and are not the only sources of bona fide knowledge. Police decision makers have to balance research and data with experience and professional judgment.

> *"By itself, evidence-based knowledge is not enough. We need the partisans arguing for scientific evidence, but we need also other types of knowledge. Craft knowledge, political knowledge, and research-based knowledge, all warrant a place at the table. These several strands need to be woven together. Craft knowledge not only needs to be treated as evidence in this weaving, but we need to recognise that it provides also the basis for choosing between the available sources of evidence"* (Fleming & Rhodes, 2017).

The issue of context was mentioned above – it is hard to know whether the results of a study done in one place are transferable elsewhere. Another limitation is that science never "proves" anything. Rather, it tests theories (formal explanations about how something works) by confirming or disconfirming hypotheses, a fancy way of saying that all scientific knowledge is tentative. Even principles and "facts" that are relatively well established are periodically subjected to further testing, and sometimes overturned.

A more philosophical issue arises because policing is a function of a government that is "of the people," not "of data," or "of science." As a society, we choose to have guilt or

innocence decided by a judge or jury, not a computer algorithm. Science and technology continually advance, but it is up to "we the people" to decide how to use it. For example, brain scanning may someday accurately detect deception, but whether and how police are allowed to use that technology to ferret out liars will be determined by public opinion, politics, and judicial decisions, not research.

One further complication is that police agencies have to juggle competing interests, priorities, and outcomes. A study may determine that a particular strategy is more effective than another at reducing crime, but police must also consider its effects on fear of crime, public trust, efficient use of resources, and equitable use of force and authority, not to mention key values such as legality, transparency, and accountability. Researchers often have the luxury of focusing their studies on one isolated outcome (the "dependent variable"), but law enforcement executives have to juggle multiple outcomes, all of which matter.

Not surprisingly, law enforcement needs to follow the middle way. Using data, analysis, and research to inform policing will pay huge dividends in increased effectiveness and better public service. At the same time, all concerned need to recognise that police policies and practices are inevitably influenced by law, values, politics, and public opinion. One of the responsibilities of police leaders is drawing on wisdom and experience to make their agencies as evidence based as possible, given the multitude of challenges and considerations that inevitably constrain their real-world decision making.

EBP vs. Intelligence-Led, Problem-Oriented, and Community-Oriented Policing

It is necessary to emphasise that evidence-based policing (EBP) is not the latest hyphenated strategy of policing – in fact, it is not a police strategy at all (Scott, 2017). Consequently, it will not replace intelligence-led policing, problem-oriented policing, community-oriented policing, or any other policing strategy. Rather, EBP can help a law enforcement agency identify which strategy might be the best fit for its situation, help it implement that strategy, and then help determine how effectively the strategy is working.

Intelligence-led policing (ILP) depends heavily on data to identify priority targets (offenders, locations, behaviours) most deserving of police attention. Thorough analysis helps uncover crime patterns, connections between offenders, and other dynamics that can help police figure out how to intervene most effectively. The driving principle of ILP is that an agency's actions should always be guided, day-by-day if not hour-by-hour, by the latest and best information (intelligence) about crime and offenders in its jurisdiction.

Problem-oriented policing (POP) relies on data to identify emerging crime and disorder problems, analysis to describe the problems and figure out why they are occurring, and then, once tailor-made responses are implemented, assessment (evaluation) to deter-

mine whether the problem has been reduced, and if not, why not. Selection of responses to a problem (after it has been analysed) should be wide-ranging and should draw on both evidence and previous experience drawn from within the agency and elsewhere.

Community-oriented policing (COP) is generally perceived as less data-driven and analytically based than intelligence-led or problem-oriented policing, but where it really differs is mainly in its priority outcomes. COP puts its greatest emphasis on improving police-community relationships, reducing fear of crime, and providing quality services, not to the exclusion of reducing crime and disorder, but on the premise that increasing public trust and cooperation will lead to longer-lasting decreases in crime. Often overlooked is that data and analysis are needed to correctly identify a jurisdiction's particular public trust and police-community relations issues and problems. Also, research is needed to determine whether COP initiatives that are undertaken succeed in making those issues and problems better, and if not, why not.

The takeaway is there's no "versus" between evidence-based policing and any of these, or other, policing strategies. EBP represents the most logical and rational approach for a law enforcement agency to adopt as it considers, implements, evaluates, and refines its strategies of policing, whatever they are.

Effective Policing

As a reminder, the *purpose* of evidence-based policing (EBP) is to make policing as effective as possible. The *methods* of EBP – data, analysis, research – are the methods of science, but the point of EBP is to use these methods to achieve real-world practical results, not to do science for its own sake.

A word about effectiveness – organisations and systems of all kinds are expected to operate in an effective manner. By definition, an activity is effective to the extent that it achieves its intended outcomes. To oversimplify just a bit, a company is effective if it maximises its profit (its "bottom line"), and a sports team is effective if it finishes in first place.

One or both of two errors are common when thinking about police effectiveness: (1) mistaking an output, such as number of arrests, for an outcome (reducing crime); and/or (2) choosing one outcome, such as reducing crime, while ignoring others. Focusing on outputs is understandable but insufficient, since the output (number of arrests) may or may not produce the outcome (reducing crime) that really matters. Focusing on only one outcome (such as reducing crime) is risky if there are multiple outcomes that matter, which is usually the case for government agencies, and always true for police organisations (Lum & Nagin, 2015).

The reality is that policing has a multi-faceted bottom line. Policing and police administration would be a lot simpler if there was a single important outcome, but there isn't.

The Bottom Line(s) of Policing

Since at least the 1960s, experts and commentators have suggested alternative ways of expressing the true purpose or ends of policing. Mark Moore and Anthony Braga produced a practical and useful framework in 2003 that incorporates seven dimensions of the policing "bottom line." This framework is favoured because it seems to capture the key outcomes that people expect the police to try to achieve, without being too detailed and complicated. The seven dimensions, or outcomes, are as follows:

- Reducing Serious Crime
- Holding Offenders to Account
- Maintaining Safety and Order
- Reassuring the Public
- Providing Quality Services
- Using Force and Authority Fairly and Effectively
- Using Financial Resources Fairly, Efficiently, and Effectively

Visible patrolling, responding to emergency and non-emergency calls, enforcing the law, taking reports, investigating crimes, checking into suspicious situations, interacting with people – these are the means and methods of policing. They are not ends in themselves but they are important aspects of police performance that are intended to achieve the seven "bottom line" outcomes listed above, including preventing crime, solving crimes that do occur, making people feel safe and secure, and delivering services to people who need them.

The importance of this framework, a kind of "balanced scorecard," cannot be over-stated. The whole point of evidence-based policing is to use data, analysis, and research to make policing more effective – i.e., to achieve the seven bottom lines of policing as completely as possible. So, if one wonders whether a police program or police agency is effective, that should be answered in relation to these seven dimensions. And if one is wondering what kinds of data are needed in order to answer such questions about effectiveness, it is data related to these dimensions.

An alert reader might wonder, what about police legitimacy? That condition, legitimacy, is best understood as the ultimate desired end of policing – when the people are satisfied that the police are capable, trustworthy, and performing as effectively as possible. In other words, the legitimacy of the police institution is best protected and enhanced when the police are as effective as possible at reducing crime, holding offenders accountable, maintaining safety and order, providing reassurance, delivering quality services, and using force, authority, and financial resources fairly and efficiently.

Reducing Serious Crime

Right away, most people would think of reducing or controlling crime as a main purpose of policing. This purpose was emphasised long ago in the well-known Peelian principle that "The test of police efficiency is the *absence of crime* and disorder, not the visible evidence of police action in dealing with it." In other words, what matters most is less crime and less victimisation, not more arrests and stops. It follows that preventing crime is preferable to merely reacting properly after it occurs.

Most of the focus of evidence-based policing (EBP) has been on doing studies to determine the crime-control effectiveness of police strategies and programs. The first major study, published in 1974, was the Kansas City Preventive Patrol Experiment (Kelling et al., 1974). Since then, many experimental and quasi-experimental studies have been conducted. The most consistent finding has been that policing efforts that are targeted, whether at locations (hot spots), prolific offenders, or specific categories of crime, tend to be more effective at reducing crime than efforts that are diffuse or generic (Weisburd & Majimundar, 2017).

A law enforcement agency should carefully track crime in its jurisdiction, not just to be aware of increases or decreases, but also to identify specific patterns, trends, and crime problems, preferably sooner rather than later in order to prevent as many future crimes as possible. Accurate targeting isn't feasible without this kind of information.

From the standpoint of overall agency effectiveness, measuring the amount of crime is essential. Unfortunately, yet understandably, most agencies only have data on reported crime, which vastly under-counts the actual amount of crime. This makes it impossible to know the size and scope of the real crime problem, and can also distort apparent changes in crime if, for example, residents become more likely to report crimes that occur (which sometimes happens when police engage in trust-building initiatives) or less likely to report them (which may happen when police staffing is low, causing longer response times that exceed victims' patience).

Another impediment to measuring crime in a meaningful way is over-reliance on traditional crime categories. These often do not include cyber-crime or other frauds (no matter how big the loss) and typically minimise the importance of crimes like simple assault, which deflects attention away from otherwise serious problems like domestic violence. Efforts are underway in several countries to develop more meaningful crime measures, but progress is slow.

Despite these limitations, a law enforcement agency is expected to measure and report the level of crime in its jurisdiction so that residents can be informed and aware. Besides using standard existing measures, the best advice is to focus on the most serious crime

along with what matters most to residents. In big cities, murders, shootings, and knifings often deserve the closest attention. In a small town or rural area, by contrast, vandalism/criminal mischief might be the most common and costly crime, and therefore one that would be important to measure, analyse, and report.

Holding Offenders to Account

When crimes occur, police are expected to try to solve them. Identifying offenders, arresting offenders, and collecting evidence to support prosecution are all part of "holding offenders to account." Of course, it is more directly the responsibility of the rest of the criminal justice system (prosecution, courts, corrections) to actually hold offenders accountable, but without effective police performance on the front end, little else happens.

Police effectiveness in holding offenders to account is important for several reasons. One is general deterrence, which helps reduce crime – many offenders weigh the risk of getting caught, so when police are better at catching offenders and solving crimes, some offenders will desist from committing crimes, or at least commit fewer. A related benefit is specific deterrence – those offenders who get caught are deprived of the opportunity to commit more crimes as long as they are incarcerated or under close supervision.

Holding offenders accountable is also a service to victims and their families. Even when they have suffered harms that cannot really be repaired, victims often get some comfort from knowing that the person who offended against them was caught. In some cases, they may even get some compensation in the form of restitution from the offender.

More generally, victims and the larger society benefit when they see that those who commit crimes are held accountable. Or to put it in a negative way, when the perception is that crime pays, that offenders get away with their crimes, this can lead to lack of confidence in police, in the justice system, and in the government's ability to protect its people. In the worst case, this leads to vigilantism, when people feel they need to take the law into their own hands. Less dramatically, it can feed cynicism and weaken the social bonds that hold communities together.

Police have traditionally measured their detection or clearance rate, which is the portion of reported crimes that have been solved. This is a key metric of police effectiveness that deserves to be tracked and reported, although the definition of "solved" is open to some interpretation and therefore has to be looked at carefully. Agencies also usually track their numbers of arrests, especially for crimes that are typically discovered through proactive policing rather than reported by a victim – such as disorderly conduct, intoxicated driving, and drug offenses.

The real outcome of interest is holding offenders to account, however. To measure their effectiveness in relation to this element of their bottom line, agencies need to look beyond identifying the offender and making arrests. They should also examine the degree to which their cases contribute to prosecutions, convictions, and appropriate sentences. This is a challenge, since it is true that police might build a strong case only to have a witness disappear, or a victim recant, or a prosecutor drop the charges in return for a guilty plea to some other offense. Thus, merely looking at the prosecution rate or the conviction rate could be deceiving. But at the same time, if a police agency is making a lot of arrests that are not leading to prosecutions and/or convictions, there is a problem that needs to be addressed, as the outcome of "holding offenders to account" is not being achieved.

Maintaining Safety and Order

A century or more ago, before the advent of sidewalks, parking lots, indoor plumbing, sewer systems, and other miracles of modern infrastructure, sanitation and public health were among the responsibilities of police. That is no longer true, for the most part, but police are still expected to protect safety and order in public places.

Today, "maintaining safety and order" includes such activities as traffic and parking control, crowd management, event security, handling noise complaints and disorderly people, resolving disputes, making sure that parks are safe places for children and families, and intervening in crisis situations involving persons with mental illness. While some of these situations can and do result in enforcement and arrest, the crimes or infractions involved are generally minor and police often try to handle them informally. The objective is to keep the peace and make it safe for people to use public spaces appropriately.

The traffic component of maintaining safety and order is a core element of policing that often gets overshadowed by crime control. However, the number of people who die each year in traffic crashes far exceeds the number who are murdered, and many more are injured. Making roadways safer is thus a crucial dimension of police performance. Less dramatic but equally important are police activities aimed at making streets and highways orderly, so that traffic can flow smoothly, allowing people and merchandise to arrive at their destinations in a timely manner.

The task of policing mass demonstrations illustrates how challenging it can be to maintain safety and order. People in free societies have the right to peaceably assemble and demand the attention of their governments. Yet demonstrations frequently interfere with the flow of traffic, sometimes escalate into property damage, and often spark counter-demonstrations. Police are charged with protecting the right of peaceful assembly, but they also have the responsibility to protect people on both sides of the issue, as well as bystanders and property. This is one of those situations in which police are literally

stuck in the middle and sometimes cannot be completely successful no matter how hard they try.

Measuring traffic safety (crashes, fatalities, injuries) is reasonably straightforward, but measuring the level of order or disorder is not. This is particularly true because there is no clear-cut standard for the "right" level of orderliness in a community – it can vary by neighbourhood, by individual person, and over time. Conditions like loud music, public drinking, and kids on the corner constitute disorder in the minds of some people, but not others. Although criminal laws prohibiting disturbing the peace and disorderly conduct are generally in effect, using discretion to negotiate the grey area between orderly and disorderly has always been a core function of policing. Because safety and orderliness have both objective and subjective components, a police agency is likely to need multiple measures to track how it is doing.

Reassuring the Public

Perception isn't reality, but it does have consequences. Excessive fear of crime can cause people to stay indoors, put bars on their windows, move to a different neighbourhood, or relocate their businesses to another city or town. Similarly, if people believe that police can't be trusted, they don't report crimes, step forward as witnesses, or participate in community-based problem solving.

Because perceptions of crime and of police performance affect people's quality of life and their interactions with law enforcement, they are an important dimension of the policing bottom line. A police agency's effectiveness is highest when the public's fear of crime is commensurate with actual risks, and when the public has trust and confidence in their police.

The traditional approach to reducing fear of crime was to work on reducing crime itself. Likewise, improving police professionalism was the approach taken to improve the public's opinion of the police. However, it has often been the case that fear of crime goes up even as the crime rate goes down, and that the very people least at risk of being victimised are the most fearful. It is also common for improvements in police performance to go unrecognised by the public, and for an agency's constituents to be influenced by policing incidents that occur hundreds or even thousands of miles away. Consequently, it makes sense for police to intentionally engage in reassuring the public, rather than assuming that people will be well informed on their own. Today, in the age of social media, this has become even more important.

There are two key elements of reassurance policing, both of which require good data. The first is that reassurance must be based on accurate information in order to have cred-

ibility. If crime is heavily unreported, for example, or if reported crime information isn't up to date, then the public might be given a false sense of security, or people might recognise that the police aren't actually on top of the situation. Similarly, if, for example, the police were to rely on their own perception in assuring the community that there was no disparity in vehicle stops, only to be contradicted by data, credibility and trust would be lost.

The other element of reassurance policing is that, like most policing practices, it should be targeted. Consider fear of crime – fear might be out of proportion to risks in some neighbourhoods but not others, some demographic groups (such as elders) might be most affected by fear of crime, and the particular causes of fear might vary between groups, such as women's fear of sexual assault. By the same logic, people's perceptions of whether police behave properly might vary geographically and demographically. Thus, intentional police efforts to reassure the public should be tailored and calibrated to be most effective and to avoid wasting energy where it isn't needed (Cordner, 2010).

Sometimes it is possible to observe the consequences of public perceptions, such as few people using a neighbourhood park or protesters at a city council meeting. More often, though, surveys and interviews are used to gauge fear of crime and perceptions of police, providing data that can then be used to target reassurance efforts.

Providing Quality Services

Police get contacted for all kinds of reasons, including crimes, disturbances, traffic accidents, lost children, suspicious activity, individuals in crisis, alarms, speeders, keys locked in cars, and, yes, cats in trees. Formal assistance may also be requested to provide security at sporting events, traffic control for parades, street closure for block parties, and background checks on childcare workers. In addition, police often respond to fire and ambulance calls, sometimes taking immediate life-saving measures until other first responders arrive. The range of activities that police engage in is extremely broad.

It is accurate to say that policing is a service, and that police provide a wide array of services. By the same token, it would be deceiving to say that policing is just a service – uniquely, police have the authority to do something about crimes, disturbances, suspicious people, and speeders. Police lead parades mainly because they can clear the way, not just because they have nice cars. In other words, saying that policing is a service doesn't diminish the fact that police have the license and capacity to make people behave, or else.

Some of the services that police provide have little to do with their official authority and could probably be delivered more effectively by others. But the reality is that the police make house calls and are open for business 24/7/365, neither of which is true of most

other service providers. Also, many social agencies simply don't have the staff or budget to assist all the vulnerable people who need their help. Consequently, the police end up providing all kinds of services as best they can. Ideally, after completing an initial assessment, police make referrals to the appropriate public or private agency, but referral only works if that agency has the capacity to provide the needed services. Too often, it keeps falling back on the police to try to help the person or resolve the situation.

Response time was the traditional indicator of good police service and is still important today, but it has two major limitations: (1) it measures how quickly police respond when someone calls, but by itself does not reveal the quality of service delivered once police arrive; and (2) studies have shown that immediate response is not always productive or necessary – quick responses to cold crimes rarely produce arrests, and victim satisfaction is not primarily determined by how fast the police show up (Spelman & Brown, 1982). Modern agencies generally aim for short response times to high priority calls while offering alternatives in other situations, such as telephone reporting, online reporting, and delayed response. Research has shown that these alternative responses can be satisfying to victims and complainants, if they are explained and delivered professionally (McEwen et al., 1986).

The other principal indicator of good police service is the customer satisfaction survey. While "customer" is not really the right label for people who receive police services, the logic is the same – following up with people who have had police contact to find out if, according to them, the police were polite, listened to them, gave good information, and provided satisfactory service. Naturally, not everyone gets what they want from the police, but systematically measuring "customer" feedback is a logical method for gauging the quality of services delivered and an important way to identify trends, issues, and problems deserving of attention from the agency's managers.

Using Force and Authority Fairly and Effectively

Technically, using authority and using force are means, not ends, and as such might not seem like valid components of the policing "bottom line." Nevertheless, they are included because they represent the core of the police role and because they dramatically affect citizens, both individually and collectively. In a free society, people relinquish some of their liberty and delegate power to police, in return for safety and order. Part of the bargain is that police agree to use that power sparingly and in ways that are lawful, equitable, and fair.

Examples of police exercising their authority include vehicle stops, person stops, frisks, searches, citations, and arrests. Police may also have authority to require people to evacuate a building, to disperse a disorderly crowd, or to take other actions in public safety

emergencies. When individuals resist police exercising their authority, or when individuals threaten the police or others, then police may use reasonable force to overcome the resistance or threat. All of these situations surrounding police use of authority and force are heavily regulated by law as well as police policy, yet often a substantial degree of discretion remains.

Today, much of the public discussion about police centers on transparency, accountability, and legitimacy in relation to police use of force and authority. The reality, of course, is that society has police specifically because it needs an institution capable of regulating citizen behaviour, by force if necessary, and yet, when police carry out this mandate, it is often controversial. Police leaders are expected to pursue "using force and authority fairly and effectively" as one of their organisation's highest priorities.

Police executives and the public need data on this aspect of the police function in order to judge how well an agency is meeting the mandate of using force and authority fairly and effectively. The number and circumstances of police shootings is obviously of high interest, but such metrics as the percent of arrests involving use of force beyond handcuffing, the number and percent of vehicle pursuits ending in crashes or injuries, and the percent of searches yielding evidence or contraband are equally important indicators of sound tactics and decision making.

An important and elusive element of using force and authority fairly pertains to race and ethnicity (Baumgartner et al., 2018). It is routine and expected that data on arrests, stops, searches, and use of force will be examined for disproportionate impact on people of colour, ethnic minorities, and women. A serious dilemma is that disproportionate impact is often found, but the data rarely provide much insight about the actual reasons for the disparity. Consequently, advocates and police sometimes debate whether there even is a problem, never mind who is to blame and how to resolve it. More positively, though, the data can sometimes spark the kinds of creative and courageous conversations that communities need to have in order to make progress on race, police-community relations, and "using force and authority fairly and effectively."

Using Financial Resources Fairly, Efficiently, and Effectively

Since police are funded by the public's money, it follows that the police are expected to use it wisely. This is so important that it is included as one of the seven "bottom lines" of policing, even though it is not really an outcome in the same way that reducing crime or reassuring citizens are outcomes. Certainly, one justification for including it is that financial mismanagement can easily cost police executives their jobs.

Fairness in resource allocation is a tricky criterion. Which deserves more police time and attention, a big-box retail store that suffers five thefts a week, or a small Main Street shop that gets hit twice a month? Should the police department focus more investigative effort on human trafficking, or domestic violence, or online child predators, or street gangs? Should every neighbourhood get the same level of patrol, or should it be distributed according to need (crime and calls for service)? Every police agency has limited resources and therefore has to balance competing issues and demands like these, none of which are slam-dunks. Fairness is ultimately a subjective standard open to debate and criticism.

Efficient use of resources is more straightforward. Contracts should be put out for bid to ensure that equipment and services are obtained at the best possible cost. Patrol officers should be allocated to shifts according to workload. Training courses should only be as long as needed to impart requisite knowledge and skills. Agencies should have the number of layers of organisation necessary for command and control, and no more. The main focus of efficiency is avoiding wasteful spending so that the best possible policing outcomes are achieved at the lowest possible cost.

Effective use of resources pertains more to using practices that work best, and not using practices that don't work so well. This dovetails directly with evidence-based policing, the purpose of which is to make policing more effective. Thus, for example, following a practice like responding immediately to every reported crime is not an effective use of resources, since studies have shown that it produces neither more arrests nor more satisfied victims. But effectiveness also depends on more than just adhering to "what works" principles. It depends on data, because targeting only works if it is focused on problems that actually exist, where they happen, and when. And it depends on analysis that uncovers the mechanisms and conditions that fuel the problem, giving police guidance on choosing responses that really fit what's going on.

Police departments have traditionally thought of this dimension of performance, using financial resources, as something technical and mechanical handled by accountants and bookkeepers. However, much more is at stake. A jurisdiction gives its police agency an amount of money to work with each year, expecting that it will be used fairly, efficiently, and effectively. Accomplishing that high standard requires not only a sharp pencil and pinching pennies, but also (1) utilizing only those programs and practices that accomplish the best possible outcomes, plus (2) channelling the wisdom of Solomon to convince people and groups with competing interests that the police are being as fair as they possibly can in how they use their resources.

Police Legitimacy

The significance of the seven dimensions of the policing bottom line, discussed in the preceding sections and represented in the middle column of the diagram below, cannot be overstated. The public and their elected leaders expect the police to achieve all seven of these outcomes, or at least do everything possible to achieve them. Naturally, resources are limited, so priorities have to be established. Also, conditions and public concerns change over time, so priorities may shift. In the end, however, all seven dimensions really matter, which helps explain why policing and police administration are so challenging.

When people are satisfied that the police are doing everything within reason to achieve the entire set of outcomes, the whole bottom line, they accept the legitimacy of the police and are most likely to cooperate with, assist, and support the police. In a free and democratic society, it is essential that police demonstrate that they are worthy of this kind of trust and confidence. That isn't expected in a dictatorship, but in a society in which people self-govern and choose to delegate certain authority to the police, comes the responsibility to use that authority wisely and effectively.

Police Performance – Activities, Outputs, etc.	→	Reduce Serious Crime Hold Offenders to Account Maintain Safety and Order Reassure the Public Provide Quality Services Use Force and Authority Fairly and Effectively Use Financial Resources Fairly and Efficiently	→	Police Legitimacy

In recent years, studies have pointed to the significant impact of procedural justice on police legitimacy (Mazerolle et al., 2013). These studies have demonstrated that how police treat people, and whether the public believes that police act fairly in their encounters with people, affects how much the public trusts the police. In terms of the policing bottom line, this perspective mainly highlights the importance of "using force and authority fairly and effectively."

The bottom-line framework is a good reminder, however, that police legitimacy depends on a range of outcomes, not just one. In some cities, for example, the public's confidence in police is strained due to high levels of violent crime and disorder, along with the belief that the police don't have the willingness or capacity to tackle the situation effectively. In others, police legitimacy is threatened not so much by the level of serious crime but because so few murders and shootings are solved. And then there are communities that

don't actually have serious crime problems, but police reassurance efforts have not been implemented or are not successful, so residents feel fearful and unprotected, though they shouldn't.

The best approach is to recognise that procedural justice is important, but it isn't the only thing that is important (Worden & McLean, 2017). Once again, the challenge is to keep the full bottom-line framework in mind, as each of its dimensions represents policing outcomes that matter to the public and that have the potential to strengthen or weaken police legitimacy.

Conclusion

Evidence-based policing is more than just conducting experiments, and it is more than figuring out how best to suppress street crime. It is essential to recognise that police agencies have multiple bottom lines, all of which matter, so evidence-based policing is about incorporating scientific methods into the enormous challenge of figuring out how to maximise the achievement of many different desired outcomes at the same time. Moreover, problems and circumstances change, requiring constant attention and a commitment to continuous improvement. Orchestrating this complex process requires skill, judgment, experience, and loads of craft knowledge. Adding evidence and science into the mix improves the chances of attaining the best possible outcomes.

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COUNCIL OF EUROPE'S STRATEGIES REGARDING HUMAN RIGHTS TRAINING EVALUATION

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Abstract
The Council of Europe is an international organisation that promotes and protects human rights. Leaders within the Council of Europe accentuated the importance of effective training and training evaluations since 1993, but human rights training evaluation for law enforcement officials is still not sufficient to fully promote and to protect human rights. Program managers organise and evaluate training for law enforcement officials, but many program managers do not apply the evaluation guidelines of the Council of Europe. The researcher in his exploratory multi-case study interviewed a sample of 11 out of a population of 30 focusing on their strategies to evaluate human right training for law enforcement officials. The theoretical framework that has been applied was Kirkpatrick's four-level evaluation model. While the first (reaction) and second (learning) level provide assessment for internal validity, the third level assesses the behaviour of participants, and the result level shows the external validity of the program. The leadership style used by the Council of Europe leaders determines their strategies. Transactional leadership might be appropriate to guide program managers to adhere to the evaluation guidelines. However, Council of Europe leaders who follow the transformational leadership approach are more likely to lead their program managers effectively. The findings of the study surprisingly showed that program managers independently developed strategies to evaluate law enforcement training. The qualitative multi-case study promoted an understanding of the strategies used by program managers to evaluate human rights training.

Keywords: *Training, Training Evaluation, Leadership, Qualitative method, Multi case study, Law Enforcement Training, Council of Europe*

Introduction

The Council of Europe is an international organisation that promotes and protects human rights through international conventions since 1949 (Council of Europe, 2015b). The Parliamentary Assembly in 1993 articulated its deep concern about the resurgence of racism, xenophobia, and intolerance throughout Europe, and recommended the introduction of human rights training, including training evaluation findings (Council of Europe, 1993). The Parliamentary Assembly in 1997 recognised continued failures in applying human rights standards by law enforcement officials due to a lack of effective evaluation of training (Council of Europe, 1997). Over the last 10 years, the annual budget spent by the Council of Europe and the European Commission for human rights protection increased to €90,403,000 in 2017, but the number of litigations issued by the European Court of Human Rights originating from a lack of effective training evaluations did not decrease (Council of Europe, 2015a; Council of Europe, 2015b).

In the opposite, the number of litigations instigated by the European Court of Human Rights concerning law enforcement between 2006 and 2016 increased from 347 to 643 (European Court of Human Rights, 2017). Council of Europe leaders needed research providing information on how to ensure program managers follow the evaluation guidelines. Law enforcement officials who have participated in training improved by evaluation findings might demonstrate a higher adherence to human rights standards. The Police and Human Rights Program of the Council of Europe has countered the human rights issues since 1997. The purpose of the program and its successors was to promote the development of police services that respect and protect the human rights of the public (Council of Europe, 1998).

The evaluation guidelines issued by the Directorate of Internal Oversight (DIO) in 2014 prescribed training evaluations in a structured way using a systematic and an impartial approach. Utilizing the evaluation guidelines aims to make evaluations credible and useful (Council of Europe, 2014). Program managers of the Council of Europe organise and evaluate human rights training for law enforcement officials; however, many program managers do not apply the evaluation guidelines in training programs. Summative training evaluations as described in the evaluation guidelines may enhance the accountability of training, feed into management and decision-making processes, maximise the impact of the training provided, and drive organisational learning and innovation. The regulatory and financial resources to conduct summative training evaluations are available, but many program managers of the Council of Europe do not strictly follow the evaluation guidelines (Council of Europe, 2015a).

Statement of the Problem

The general problem is Council of Europe program managers fail to adhere to training evaluation guidelines increasing litigation issues (Carnevale & Shulz, 1990). The specific problem is that some Council of Europe leaders lack effective strategies to ensure that program managers of human rights training adhere to the evaluation guidelines (Bassi & Shulz, 1990). The qualitative multi-case study design choice intended to generate an understanding of the effective strategies used by Council of Europe leaders to guide program managers on the utilisation of the evaluation guidelines (Punch, 2005).

Conceptual Framework

The conceptual framework for the exploratory qualitative multi-case study was the Kirkpatrick four-level model of training evaluation (Kirkpatrick, 1960). Kirkpatrick originally formulated his model in 1959 and further developed the model over subsequent decades. The Kirkpatrick model focuses on four levels described as reaction, learning, behaviour, and results (Kirkpatrick, 1960). Reaction is a measure of what the delegates taught of an activity or program; learning is a measure of the learning of principles, facts, skills, and attitudes; behaviour is a measure of changes in aspects of job performance; and results is a measure of the changes in the criteria of organisational effectiveness. Kirkpatrick's model highlights the necessity of comprehensive training evaluation including participants' behaviour change evaluation as opposed to a description of training and participants' immediate reactions to training. Kirkpatrick's four level model is appropriate for the exploratory qualitative multi-case study as it could serve as a framework for the evaluation of Council of Europe human rights training (Kirkpatrick & Kirkpatrick, 2006).

Significance of the Study

The significance of the exploratory qualitative multi-case study was founded in the importance to explore what effective strategies Council of Leaders use to ensure that program managers of human rights training adhere to the evaluation guidelines. The exploratory qualitative multi-case study aimed to provide leaders with effective strategies to ensure that program managers of human rights training adhere to the evaluation guidelines (Aytes & Connolly, 2004). Leaders in intergovernmental organisations financed by member states are accountable for the thorough management of the organisation as the member states expect a return of investment.

Methodology

The researcher used a qualitative methodology to explore the strategies of program managers to evaluate human rights training for law enforcement officials. Researchers use the qualitative method to explore the unique views of a small sample as qualitative research increases the understanding behind situations and occurrences (Glesne & Pesh-

kins, 1992; Starman, 2013). The qualitative method has been an emerging and interpretive method for investigating individuals or situations in a natural environment to discover individual perspectives and strategies (Yilmaz, 2013).

Design

From different qualitative designs like ethnography, phenomenology, and grounded theory, the researcher used the exploratory multi-case study design as the case study approach allows investigating a contemporary phenomenon in depth and its real-world context (Yin, 2014). Researchers use case study design to analyse programs, events, or groups of individuals from a rigorous perspective. The case study design could be evaluative, explanatory, descriptive, or exploratory (Tellis, 1997). The evaluative case study is a psychology, assessment, or evidence-based approach. Researchers who employ the descriptive case study start with a descriptive theory, and the use of explanatory case studies allow determining the value of conducting a research study. The holistic approach of the exploratory case study supports exploring the effective strategies that Council of Europe leaders use to ensure that program managers adhere to the evaluation guidelines (Yin, 2014).

Setting, Population and Sample

A population is the entire group of individuals or items that share one or more characteristics, used to gather and analyse data (Simon & Goes, 2012). The population of this multi-case study contained leaders within the Human Rights Directorate and within the Directorate of Internal Oversight (DIO) of the Council of Europe. The number of Council of Europe leaders – and therefore the population of the study - within the Human Rights Directorate and within the DIO have been 30 (Council Europe, 2017a; Council of Europe, 2017b; Council of Europe, 2017c). The expertise of the population was the basis for the choice of individuals in the proposed study.

Participants of a study represent a sample of some larger population to which the researcher wishes to generalise her or his findings (Cone & Foster, 2006). For the exploratory qualitative multi-case study, the researcher used purposive sampling with a predetermined criterion of importance. Purposive sampling is a process, researchers use to obtain samples through qualitative research, and is determined through the research question (Mason, 2010). The researcher obtained the information about the participants from the organisation chart of the Council of Europe, as the participants were, or have to be, in charge for law enforcement human rights training. There are no set sample sizes in qualitative research, but in case study research, the researcher should follow the principle described as selection to the point of redundancy, which means that the sample size must be sufficient to reach data saturation (Guba & Lincoln, 1994). Data saturation is reached when there is enough information to replicate the study, when the ability to obtain additional new information has been attained, and when further coding is not feasible (Fusch

& Ness, 2015). After nine interviews, the researcher conducted two more interviews to meet confirmability of data saturation. The interviews were conducted in English, as English is an official language of the Council of Europe.

Number of Interviewees (4 male, 7 females|)	Unit/Task during the time of the interview
5	Interviewees were working in the Criminal Law Cooperation Unit within the AACD.
1	Interviewee was working in a unit that coordinates cooperation projects or projects of technical assistance in the fields of probation, police, and prisons.
1	Interviewee was working with projects in the criminal justice field.
1	Interviewee was working in the Justice and Political Cooperation Department of the Council of Europe.
1	Interviewee was working as a project manager of projects involving training in the field of human rights.
1	Interviewee oversaw a program including human rights education for judges, prosecutors, and lawyers.
1	Interviewee oversaw a program including human rights education for judges, prosecutors, and lawyers.

Instruments

The researcher, who functioned as the interviewer, developed the interview questions based on the research question. The interview questions were related to what effective strategies Council of Europe leaders use to ensure that program managers of human rights training adhere to the evaluation guidelines and serve as a guideline for the proposed multi-case study. The semi-structured format allowed intense communication with each participant and provided the flexibility to pursue a rich description based on participant responses (Yin, 2014).

The researcher used an interview protocol in the exploratory qualitative multi-case study for asking questions and recording answers during a qualitative interview. The interviewer recorded information from interviews by making handwritten notes and by audiotaping. Notes should be taken even if an interview is taped if recording equipment fails. The interview protocol of the proposed study included the following components: A heading comprising date, place, interviewer, and pseudonyms assigned for the participants; instructions for the interviewer to follow; the interview questions; a thank-you statement to acknowledge the time the participant spent during the interview was included in the interview protocol; and a log kept by the researcher that would work well for primary and secondary data (Castillo-Montoya, 2016).

Limitations

The researcher got permission to use the premises of Council of Europe to conduct the interviews within the framework of a study visit. In its letter from August 28, 2018, the Council of Europe granted the researcher permission to use a room within the Council of Europe within the period from October 8 through October 10, 2018. The researcher needed to schedule the interviews within the period October 8 through October 10, 2018. The number of interviews led to data saturation and none of the participants denied the invitation because of not being available within the given period. The limited time might have caused time pressure for participants to be less open, calm, or affected their moods (Simon, 2011; Merriam & Tisdell, 2015).

The Researcher, Informed Consent, Confidentiality, and Ethics

The researcher was responsible for organizing, performing, and evaluating human rights training activities that time. A lack of rigor caused by the bias and the emotional attachment of the researcher could be a consequence. To reduce bias and increase the likelihood of honest responses, no participant has been interviewed who worked together with the researcher on training evaluation. Moreover, the interviewer did not interject personal opinions during the interviews. Participants of the study obtained satisfactory information about the proposed study before such participants made an informed decision. Those participants received a copy of the informed consent to read, review, understand, and sign before participating. The letter advised participants about the potential for risks inherent in any research study. No participant withdrew from the study (Yin, 2014).

The researcher must protect participant identities in recordings and written information. All identifying participant information on the audio recordings and throughout the analysis and reporting process were replaced with pseudonyms. The pseudonyms include the word participants and an actual name, i.e. participant Alan. The master list of participants, the assigned pseudonyms, and the transcripts will remain in a locked safety deposit box at the researcher's house for three years. Each participant received a copy of the transcribed and revised interview. The participants made their remarks in handwriting on the document provided by the interviewer. Following transcription approval, destruction of all audio recordings by means of demagnetisation occurred. If desired, the participants may receive a summary of the study findings following defence of the research study (Yin, 2014).

The protection of human rights is essential in human subject research. Researchers must exercise caution to do no harm physically, emotionally, or psychologically to study participants. Harm could arise from deceptive practices, data misinterpretation or misrepresentation, breach of confidentiality, or an increased awareness of inadequacy. Study participants could be at risk for psychological regret, embarrassment, emotional anxiety, or fear. To help relieve the possibility of emotional harm, participants were assured that

no right or wrong answers existed. After multiple reviews of the recordings and transcripts, all recordings were destroyed.

Financing Training Activities of the Council of Europe

Financing training evaluation within the Council of Europe is dependent on the budget line of training activities. For human rights training financed by the European Union, the Council of Europe is regularly used as the facilitator of the respective training. The Council of Europe organises the training in the framework of projects with budgets lines assigned for training evaluation. The Council of Europe also organises and performs training outside of a project, such training activities are financed by the ordinary budget of the Council of Europe. Council of Europe training takes place in member states in which no training projects financed by the European Union are organised. Training financed by the ordinary budget of the Council of Europe might also be conducted where there is a specific need that is not part of a European Union project. The Council of Europe is also conducting and financing conferences or multi-lateral conferences that are organised in Strasbourg/France. Training and conferences financed by the Council of Europe have no budget lines assigned for training evaluation.

Interviews

The researcher evaluated the transcribed interviews identifying common themes. The interview questions at the beginning of each interview served as a guideline and a door opener. The researcher developed the interview questions assuming the evaluation guidelines of the Council of Europe are the core document for program managers when it comes to training evaluation. When conducting the interviews, the researcher detected that the interviewees do not include the evaluation guidelines when preparing and performing training evaluation. The semi-structured format allowed the researcher intense communication with each interviewee and provided the flexibility to pursue a rich description based on participant responses (Christensen et al., 2014). The researcher triggered the interviewees to present the current training evaluation, which in most cases disregards the evaluation guidelines. At the end of each interview, the researcher offered participants the opportunity to add comments about training evaluation not directly related to a specific interview question. The researcher extracted the essential statements from the transcripts of the interviews. The researcher rephrased the statements without changing the meaning when necessary to understand the dialogue.

Interview of Alan: "*When I started my current position, I was surprised that the Council of Europe has no training evaluation system in place. The only current training evaluation is the training report. The training report is subjective because it is the personal view of the program manager. Through a lack of internal communication, important information regarding training and training evaluation is not transferred to and between program managers.*"

Interview of Betty: "*I do not know about the evaluation guidelines of the Council of Europe. Program managers or trainers write a report about the training. These reports are not a summative training evaluation. The reports do not include an objective description of the training elements, the training implementation, or the training outcome. Council of Europe human rights training does not include training evaluation except evaluation on a trainer based personal initiative. After law enforcement training in Georgia, questionnaires are handed out to the trainees. The questionnaires contain questions about the satisfaction of the trainees, which include even the quality of the coffee. It is critical to know if the trainees have received the necessary information, useful for their current day-to-day work.*"

Interview of Carol: "*Training evaluation could be conducted ex-ante or ex-post to the training. [. . .] Feedback should be integrated in programming of future training. Evaluation is nothing new. Evaluation was already part of the Marshall Plan and the project cycle management. For training, delivered in the framework of Project Management, evaluation has always been included.*"

Interview of Dorothy: "*I was involved in the development of guidelines for the development of training for legal professionals. These guidelines were called "The HELP Course from Design to Evaluation". It is critical that program managers see the need of training evaluation. At the beginning and at the end of each training, a questionnaire will be handed out. The questionnaire allows assessing the evolution during the training. Another questionnaire should be handed out after three months and another one after six months. . .When a project or training is being developed, the learning objectives should be defined.*"

Interview of Emma: "*Evaluation guidelines do not exist within the Council of Europe. There is no structured training evaluation at the Council of Europe. Qualitative evaluation should measure knowledge at the beginning and at the end of the training course. Current training evaluation does not include such measuring. Project managers organise training evaluation on their own initiative. Program managers are constantly working on improving evaluation. Program managers must submit training reports. The European Court of Human Rights case law is extremely important when teaching prison guards and law enforcement officials.*"

Interview of Florence: "*There are no general training evaluation guidelines within the Council of Europe. There are evaluation guidelines developed by the Department for Internal Oversight. I have partly read them. I do not apply these guidelines for training activities. I forgot to mention interim reports, progress reports, and final reports. Such reports are a good tool to collect information of a project. I used self-developed questionnaires as an evaluation tool for training activities. I was satisfied with the results as these questionnaires allowed to assess the level of knowledge after the training course.*"

Interview of Gloria: "*There are no evaluation guidelines of the Council of Europe. Self-developed multiple-choice questions and oral exams should be considered as internal training evaluation. Training evaluation is one of the most important elements of training. The donors do not impose us to evaluate the training.*"

Interview of Harold: "*Evaluation guidelines did not exist when I started working on projects and training 15 years ago. That was a time of big enthusiasm after the fall of the Berlin Wall. It was not so much time of evaluation. That was the time of action. For the program manager it was interesting to see if the participants did benefit from the training. At the beginning, the questions were simple like how the training material was, 'was the trainer good, what would you like to see improved, what are the topics you would like to see'. External evaluation differs from internal evaluation. Initially, the Council of Europe conducted internal evaluation with questionnaires connected to the organisation of each training. In contrary, external evaluation is evaluation performed by a company, a firm, an institution, or a consultant that is external to the Council of Europe, external to the donor and that conducts the evaluation. The way the Council of Europe works, including evaluation, became very bureaucratic and too hierarchical. It should be more flexibility and not too much evaluation. The evaluation guidelines are rather impractical, written by people with limited experience with project management. Evaluation guidelines should include more freedom, more autonomy, and more flexibility. A project manager should have the choice, where to spend the money. I would prefer to spend it on training rather than on evaluation when there is no sufficient budget to hire the necessary team.*"

Interview of Ian: "*The Council of Europe does not have evaluation guidelines. There is an evaluation unit, which has developed some guidelines. These guidelines should not be considered as an evaluation strategy. Although program managers do not have training evaluation guidelines, program manager try to assess and evaluate the training that has been conducted. Program managers developed questionnaires that are completed by the participants. Program managers monitor training sessions and coach the trainers. Program managers ask the trainers to provide the pre- and post-questionnaires to the participant. My unit launched evaluation techniques to conduct a long-term evaluation. We use focus groups of ten or twenty participants for hundred or two hundred participants to evaluate the training after six months, after one year, and after two years.*"

Interview of Kathleen: "*Evaluation has been conducted on the initiative of program managers. I designed a tool for trainers where different types of scenarios like role-playing have been included. The participants should identify themselves with victims and investigators on the crime scene. It is important to observe the multiplying effect of training and to work with academies incorporating exercises into their curriculum. Flexibility of evaluation guidelines is important.*"

Interview of Leroy: "*The evaluation guidelines of the Council of Europe are very general and leave a lot of room for flexibility. An example of training evaluation are Training of Trainers activities with the pre- and post- knowledge and skills tests, which measure the immediate success rate of training. Training evaluation is different depending on the respective unit of the Council of Europe. Program mangers adjust their evaluation to the needs, the beneficiaries, and the target group, which could include judges, prosecutors, academies, or judicial training centres. The Department for Internal Oversight does not systematically conduct evaluation of each project or program.*"

Analysis of Interviews

Interviewees clarified that through weaknesses within the internal communication, important information regarding training and training evaluation is not completely transferred to and between program managers.

Self-Developed Summative Training Evaluation

Program manager are assigned to organise human rights training financed by the European Union within the framework of budgets and by the ordinary budget of the Council of Europe. The European Union introduced intensive evaluation as a part of the project contracts. Some evaluation must be an external evaluation, implying financial issues. Interviewees explained that organizing and conducting training, including evaluation, became too bureaucratic and too hierarchical. To make evaluation happen, program managers make use of trainers to conduct human rights training for law enforcement officials. Program managers and trainers write training reports such as interim reports, progress reports, and final reports for projects and human rights training. The reports include the number of trainees, as well as major difficulties and major items highlighted by the trainees. Such training reports are subjective because the reports include the personal point of view of the program manager. The training reports additionally often disregard the point of view of the trainees. Moreover, the reports do not include an objective description of the major training elements, do not include how the training was implemented, and do not include what the outcome of the training was. The reports should also contain the lacunae, the loopholes, and further needs. For training facilitated in the framework of a project financed by the European Union, the reports do not comply with the requirement of the evaluation requested by the European Union as the reports are a quantitative.

The results of the training evaluation are submitted to the financing authority. Program managers developed a wide range of training evaluation tools and activities, including self-developed strategies for training evaluation to fulfil the requirements of the European Union. Interviewees invented self-developed evaluation-like questionnaires because

from their perspective it is important to know the point of view of the trainees. Simple questionnaires contain questions about whether the trainees were happy with the content, whether the training was useful, whether the premises were good, and whether the coffee was served hot. Several items about the training, which should be addressed through a proper, evaluation-training questionnaire, are not included in such simple questionnaires.

Training evaluation developed by program managers for human rights training including Training of Trainers activities often contain pre- and post-knowledge and skills tests. Such tests measure the immediate result of the training. Pre- and post-tests are distributed and collected by trainers and sent back to program managers after the training. Pre- and post-tests may be complemented by self-developed multiple-choice questions and oral exams. Another self-developed evaluation tool for trainers includes exercises, handouts, and ideas about different types of scenarios, most role-playing. The aim is that the participants should identify themselves with victims and investigators on the crime scene. Program managers together with experts and trainers are developing entry and exit questionnaires based on the substance of the respective training to measure the level of knowledge at the entrance and level of knowledge at the exit.

Triangulation

The purpose of the triangulation was to confirm the findings of the analysis of the results of the exploratory qualitative multi-case study. Triangulation was achieved using several sources when retrieving data (Yin, 2014; Seidman, 2013; Chowdhury, 2015). The first triangulation source included one-on-one interviews with Council of Europe leaders. The second and third triangulation source include the document review. The researcher reviewed documents including litigations of the European Court of Human Rights, reports from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and evaluated reports issued by the Directorate of Internal Oversight.

Litigations of the European Court of Human Rights

The researcher used the HUDOC database to identify litigation of the European Court of Human Rights against member states of the Council of Europe, where misconduct of law enforcement officials led to a violation of human rights. The researcher limited the research to the years 2010 until 2018. The researcher selected litigations against member states of the Council of Europe, which are not member states of the European Union. Member states of the European Union are not covered by human rights training of the Council of Europe. The researcher identified 32 cases in which misconduct of law enforcement officials was considered a serious violation of human rights of citizens. The research

was limited to the years 2010 until 2018 and to member states of the Council of Europe, which are not member states of the European Union. The high number indicates that law enforcement official still lacks effective human rights training. Human rights training for law enforcement official would be more effective, if the training would include findings from a summative training evaluation.

Reports from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

The researcher used the HUDOC database to identify reports of visits of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to member states of the Council of Europe, where severe physical ill-treatment of persons detained by the police as criminal suspects led to a violation of human rights. The researcher limited the research to the years 2017 and 2018. The researcher selected reports about member states of the Council of Europe, which are not member states of the European Union. Member states of the European Union are not covered by human rights training of the Council of Europe. The researcher has evaluated four reports issued in 2017 and 2018 for Azerbaijan, Ukraine (2 visits/reports), and Serbia. All reports include that the CPT received numerous and widespread allegations of severe physical ill-treatment of persons detained by the police as criminal suspects including juveniles as young as 15. The alleged police ill-treatment appeared to follow a very consistent pattern throughout the different regions visited. Police ill-treatment was said to have occurred mostly in police establishments during initial interviews by operational police officers, with the aim to force the persons to sign a confession, provide other information or accept additional charges. Law enforcement officials have not been trained effectively to refrain from misconduct. Summative training evaluation would have led to a more effective human rights training for law enforcement officials.

Annual Reports from the Directorate of Internal Oversight

The Directorate of Internal Oversight (DIO) of the Council of Europe provides independent oversight, objective assurance, and consulting services designed to add value to and improve the Organisation's operations. The researcher evaluated the annual reports 2016 and 2017 issued by the Directorate of Internal Oversight. The reports were assessed concerning the statements of the DIO about training evaluation. The reports contained recommendations to provide the Council of Europe with more transparent and efficient processes, greater controls, and better compliance with the existing regulations including training offered by the Council of Europe.

Summary

The purpose of the qualitative multi-case study was to explore Council of Europe's strategies regarding human rights training evaluation. The analysis of results focused on the analysis of the interviews of eleven Council of Europe leaders and their strategies regarding training evaluation. Two leadership styles show promise in providing effective strategies to assure that program managers are following the evaluation guidelines. The leadership styles are transactional leadership and transformational leadership. Bass (1985) suggested that transactional and transformational leadership are separate concepts, and that good leaders demonstrate characteristics of both.

Improving Training Evaluation

The interviewees underlined the need to know if the trainees have received the necessary information for their current day-to-day work. Program managers try to obtain such information by qualitative evaluation. Qualitative evaluation should measure knowledge at the beginning and at the end of the training. Evaluation should take place six months after the training. This is rarely done with Council of Europe human rights training. There is a contractual obligation to evaluate European Union financed projects including standardised questionnaires. Interviewees proposed to improve the evaluation guidelines through more freedom, more autonomy, and more flexibility. The guidelines should also fit if the project is relatively small and has limited resources. In the case, a program manager or supervisor is left with the choice about where to spend the money it should be possible to spend the respective budget solely on training.

Leadership and Leadership Styles

The transactional leadership theory views the leader-follower relation as a sequence of transactions and exchanges between the leader and the followers. Transactional leaders focus on an exchange of resources. A transactional leader-follower relationship includes rewards or punishments, respectively, to compensate followers' compliance and efforts to achieve organisational goals, or followers' failure to meet the leader's goals. Transactional leadership is often referred to as command-and-control type leadership. Transactional leadership has been the typical type of leadership used in organisations, the military, and government service. Transforming leadership is a process whereby leaders and followers support each other to achieve a higher level of moral and motivation. Transforming leaders should be able to generate considerable change in the life of people, organisations, and communities. Transforming leaders possess the traits, personality, and characteristics to articulate energised vision and challenging goals (Burns, 1978; Bass 1990; Judge & Bono, 2000; Yukl, 2002; Zaccaro, 2007; Burns, 2010).

Recommendations to Council of Europe Leaders

Program manager act as transactional leaders when they follow the project plans, perform evaluation, and provide such evaluation to the donors of the activities. Program managers do not apply the evaluation guidelines for training evaluation. Program manager are filling the gap of policies when they develop their own evaluation tools. Program managers safeguarded the compliance with the requirements of projects and prevented the Council of Europe from breaking the rules. Some program managers are trying to interconnect projects, but program managers are organisationally and financially bound to their projects and therefore unable to find a higher level of ethical guidelines and motivation. The tools developed and applied by program manager might fulfil the project requirements but lack the achievement of an interconnected strategy.

Council of Europe leaders should create considerable change in the adherence of program managers to the evaluation guidelines when using transformational leadership. Transformational leadership facilitates a redefinition of a people's mission and vision, a renewal of leaders' commitment, and restructuring their systems for goal accomplishments. Council of Europe leaders should make use of the motivation and enthusiasm of program managers. Council of Europe leaders, together with the Department for Internal Oversight, should use effective communication and transparency to introduce effective evaluation tools to program managers. Program managers are hesitant to use means provided by the Council of Europe. Council of Europe leaders need to convince program managers that the use of such means is serving their own goals and the goals of the organisation. Program managers should be asked to contribute to the development of an evaluation strategy of the organisation.

Conclusions

Training evaluation generates the information for decision-making about future training methods, training contents, and training participants. Although the Council of Europe Secretariat in 2014 has introduced the evaluation guidelines as a binding document, program managers of the Council of Europe do not fully apply the evaluation guidelines for training evaluation of human rights training for law enforcement officials. The only current systematic training evaluation is the training report. Training reports are formative. Each individual program manager decides how the evaluation of activities will be organised. Program mangers develop and conduct training evaluations on their own initiative. The self-developed training evaluation contains elements of summative training evaluation. Program managers made constructive proposals about conducting training evaluations for human rights training.

Council of Europe leaders and program managers achieved remarkable results when evaluating human rights training for law enforcement officials adding elements of summative evaluation. Program managers provided a cornerstone of evaluation when using self-developed evaluation tools to provide the required results to the European Union. Council of Europe leaders using transformational leadership should support each other to achieve a higher level of morale and motivation. Council of Europe leaders should generate considerable change concerning training evaluation, as they possess the traits, personality, and characteristics to articulate energised vision and challenging goals. Council of Europe leaders, through transformational leadership, should develop further training evaluation to achieve the goals of the organisation.

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THE IMPORTANCE OF A COMMON DEFINITION OF TAX CRIME AND ITS IMPACT ON CRIMINAL COUNTERMEASURES IN THE EU: An explorative study

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Abstract
Tax crimes have continued to overreach legal clarity, enforcement certainty, fiscal performance and effective public policy in the European Union (EU). The criminal justice countermeasures that have been devised to confront the vitality, intransigence and impacts of tax crimes have consequently been far from being effective and efficient. Guided by the research outputs of an EU funded PROTAX, an advanced solution-hunting research project for tax crimes, this article identifies the uncertainties embedded in the definition of tax crimes in the legal frameworks across the EU Member States as one of the key impediments that weaken the resolve to fight against tax crimes in the EU effectively. By utilising empirical and comparative legal research, this article delves into the main gaps in the criminalisation of tax evasion behaviour. It urges for the development of new methods that can effectively counter tax crimes in the EU.

Keywords: *Tax crime, criminal liability, countermeasures, EU, PROTAX.*

Introduction

Across the EU Member States (MS), there is a huge gap between estimated revenues from taxes and the tax revenues that have actually been collected every year. For instance, the EU found that in 2017 the total VAT gap or compliance gap across the EU was about EUR 137.5 billion, representing 11.2% loss of the total VAT revenue expected in that year

(European Commission, 2019). From 2014, though there has been a continuous decline in the real VAT gap across the EU, the scale of the VAT gap is still significantly high (see European Commission 2020). Although factors such as 'administrative errors, bankruptcies, insolvencies and tax optimisation' also contribute to the scale of the compliance gap, tax fraud (particularly, VAT fraud) and tax evasion as tax crimes have been identified as part of the key contributory factors to this 'missing part' (European Commission, n.d.).

The EU has estimated that while loss from tax fraud and tax evasion 'stands up to EUR 1 trillion' every year (European Parliament, 2018), the total government debt for all the 27 EU MS stood at just EUR 514 billion in 2012 (European Commission, n.d.). This points out as just how EU MS' governments would still have been without any debts choking their economies and yet would still have had more extra revenues to undertake further socio-economic development had tax evasion and tax fraud been eliminated or at least mitigated. Aside from the fairness concerns and the threat to the single market, tax crimes indeed continue to pose serious stress to the budgets of the EU, and its MS. PROTAX case studies revealed that tax offences are rife, creating substantial damage to society (Turksen et al., 2018).

There have been many efforts to nip the situation in the bud. However, the problem of tax crimes persists. This paper contributes to the efforts that can make a unique difference in countering the problem by leveraging outputs of EU-funded project, PROTAX (www.protax-project.eu) which the author is currently leading, to highlight the need for a common definition of tax crimes in the EU in light of criminal law enforcement.

The PROTAX project

PROTAX is aimed at creating a toolkit to harmonise the prosecution of tax crimes and enhance information sharing across the EU. The motivation of the project is anchored on the considerable scale and socio-economic impact as well as policy concerns, and law enforcement deficits in countering tax crimes in the EU. The need to address these, as reflected in the EU policy priorities, including the financing of research projects in this direction, is a more significant motive for PROTAX. Identification of knowledge gaps and providing tested methods to fix them are critical pillars that support the course of action to achieve motivation. To this end, PROTAX project generates a variety of tested solutions such as building a legally sound and effective prevention and prosecution methods for countering tax crimes, with a focus on the development of cohesive approach of law enforcement in the EU.

The project uses a multidimensional methodology, which combines empirical and theoretical research, including review and synthesis of relevant academic literature, the use of doctrinal and comparative legal analysis, and stakeholder engagements such as focus group discussions and conferencing. Both top-down and bottom-up approaches are

used in information gathering and analysis, ensuring that micro and macro-level concerns/needs and solution dossiers on countering tax crimes are effectively catered for. The PROTAX research is ongoing and has already generated massive datasets worth considering by law enforcement personnel and researchers.

This paper provides some pertinent insights into PROTAX deliverables (particularly in respect of PROTAX reports for 2018 and 2019). It leverages that to make novel deductions/conclusions, which are analytically drawn and made more suitable for use by law enforcement researchers and related audience. Specifically, the paper analyses the relationship between tax evasion and tax fraud (tax crimes) and criminal countermeasures in the EU MS while exploring the need for a common definition of tax crimes in the EU.

Approach

The paper employs doctrinal, socio-legal and comparative research methodologies to study the different definitions and consequences on law enforcement against tax crimes across EU MS. The legal parameters of this multidimensional approach to legal research are mainly confined to European jurisdictions such as Austria, Czech Republic, Estonia, Finland, Germany, Ireland, Malta, Portugal and the United Kingdom, which have significant differences as far as their respective tax enforcement eco-systems are concerned.[1]

Defining tax crimes

Tax crimes are common yet difficult to measure (Feria, 2020). Despite its prevalence, neither the EU nor the OECD has clearly defined tax crimes. OECD has attempted to define tax crime as tax fraud identified as, 'a form of deliberate evasion of tax which is generally punishable under criminal law… [and that it] includes situations in which deliberately false statements are submitted, fake documents are produced, etc.' (OECD, n.d.; Vlcek, 2019). This definition of tax fraud is casually (not legislatively) adopted by the EU (European Commission, n.d.). EU is yet to have a unified definition of tax crimes in its *acquis communautaire* (Thirion and Scherrer, 2017)[2] as it has been difficult to achieve consensus among its MS (Suso, 2014).[3] The EU also 'casually' defines tax evasion 'as any conduct by taxpayers that involves fraud on tax payments that are owed to the State and for which the law recognises as a criminal conduct' (European Commission, n.d.).

1 Nevertheless, references are also made to criminal law of other EU Member States.

2 Thirion and Scherrer (2017) opine that 'the distinction between administrative tax offences and criminal tax offences is often blurred at Member State level and it is sometimes unclear whether these two types of sanction are complementary or conflicting' (p.8).

3 It should be noted that the FIUs in the EU have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. See Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018, para. 18.

These two terms (fraud and evasion) are intertwined and characterise essential taxonomies of tax crimes in the EU. The most common behaviours across the chain of tax offences in almost all the EU MS are that of fraud and dishonesty (Suso, 2014). Nevertheless, these require a unified definition with proper expression in EU law to be more effective by law enforcement agencies (LEAs). See the varied connotations of these behaviours in Table 1 below:

Table 1: Examples of divergent connotations of tax offences in selected European jurisdictions

Austria	**Tax evasion (Article 33 of the Fiscal Offences Act 1958)**
	Tax fraud (Article 39 of the Fiscal Offences Act 1958)
Czech Republic	Evasion of taxes, fees and similar compulsory payment (Section 240 of the Penal Code 2009)
	Evasion of taxes, social security insurance fee and similar compulsory payment (Section 241 of the Penal Code 2009)
Estonia	Concealment of tax liability and unfounded increase of claim for refund (§ 389 of the Penal Code 2001)
Finland	Tax Fraud (Section 1, Chapter 29, of the Penal Code 1889)
	Aggravated tax fraud (Section 2, Chapter 29, of the Penal Code 1889)
	Petty tax fraud (Section 3, Chapter 29, of the Penal Code 1889)
Germany	Tax Violation (Section 4, Chapter 29, of the Penal Code 1889)
	Tax crimes (Section 369 of the Fiscal Code 2002)
	Tax evasion (Section 370 of the Fiscal Code 2002)
Ireland	Revenue Offences (1078 of the Taxes Consolidation Act 1997)
Malta	Fraudulent subtraction of tax payments (Article 11 of the Legislative Decree no. 74/2000)
	Penal provisions relating to fraud, etc. (Article 52 of Chapter 372 – Income Tax Management Act 1994)
Portugal	Tax Scam (Article 87 of the General Regime of Tax Infringements)
	Tax Fraud (Article 103 of the General Regime of Tax Infringements)
United Kingdom	Conspiracy to defraud (Common law offence preserved by the Criminal Law Act 1977, s5(2))
	Cheating the Public Revenue (Common Law offence, preserved by Theft Act 1968, s32(1)(a))
	Untrue Declarations (Customs and Excise Management Act 1979, s167)

Source: PROTAX: (Rasmouki et al., 2019)

In establishing essential tax behaviours or elements that characterise a criminal activity Directive (EU) 2018/1673 (sixth AMLD) re-emphasises the 'unavoidable' space that arguably should be created in EU law to accommodate divergence of definitions of tax crimes in national law (Recital 8). This is due to differences in what 'constitutes a punishable criminal activity by sanctions' (Recital 8) in each EU MS against tax crimes provided for by the Anti-Money Laundering Directives (AMLD) of the EU and the regulatory frameworks of Financial Action Task Force (FATF, 2012-2019:p.115).

Indeed, the sixth AMLD of the EU does not seek 'to harmonise the definitions of tax crimes in national law' (Recital 8). Articles 2(1) (q) and 3(1) of Directive (EU) 2018/1673 affirm the criminalisation of tax offences based on national law. The relevant tax crime definitional provisions in Directive (EU) 2018/1673 build upon a series of preceding legal instruments including in particular Recital 11 and Article 3(4)(f) of Directive (EU) 2015/849.

However, fraud against the financial interests of the EU and its MS has increasingly received a common definitional approach in the EU's *acquis communautaire*. These find expression in Directive (EU) 2017/1371 and Directive (EU) 2018/1673. In fact, since the coming into being of the Convention on the protection of the European Communities' financial interests in 1995, supplementary instruments have been drawn to contribute to the harmonisation of the legal definition of fraud. Directive (EU) 2017/1371 and Directive (EU) 2018/1673 are essentially the latest of the EU legal instruments that have given clarity to the drive for a common definition of fraud especially relating to VAT fraud against EU financial interests and its MS.

Thus, it may be pertinent to produce an EU definition of tax crime (tax fraud and evasion in particular) in line with the EU definition of VAT fraud under Article 3(2)(d) of Directive (EU) 2017/1371 which has fairly established clearer parameters of VAT fraud.

Assessing the impact of tax definitions on law enforcement

One of the key differences between national tax systems stems from the nature and the definitions of tax crimes in each EU Member State (Turksen et al., 2018). In most EU countries, tax offences are qualified as criminal and/or administrative offence, depending on the classification given under each legal system (Rasmouki et al., 2019). Therefore, the notion of 'tax crime' falls within the broader notion of 'tax offence'[4] which is also designated as a predicate offence under anti-money laundering regulations. Despite this classification, tax crimes are dealt with by multiple and/or parallel procedures *inter alia*, civil,

4 Tax offences may include ***inter alia*** cheating or defrauding the public revenue; deliberately creating or providing false documentation in tax returns and/or misrepresentation of financial information or dishonest tax recording, accounting or auditing; failing to declare taxable income or trade; aiding abetting, facilitating tax evasion; claiming fabricated tax returns. Tax offence (fraud) can also happen when VAT is charged on a product, but that tax is not paid to the government and is instead stolen by the fraudster. This is known as Missing Trader Intra-Community Fraud (MTIC), or carousel fraud.

administrative or criminal laws. These different enforcement approaches to tax offences could have an impact on judicial cooperation in criminal matters whereby the criminal conduct could be qualified as administrative (civil law) tax offence in some countries and criminal offence in other legal systems (Turksen et al., 2018). Subsequently, this can have detrimental effects on cross-border cooperation between law enforcement agencies since the existing cooperation mechanisms provided to mitigate the situation do not appear to cure the difficulties brought by these dichotomies.

It is evident that national legislators have preferred administrative sanctions for punishing tax violations as expertise of administrative authorities and the structure of administrative procedures often make the imposition of fiscal/financial sanctions faster and more effective. In tandem with this general trend, criminalisation of tax offences[5] and criminal sanctions (which often include deprivation of liberty by a prison sentence) are imposed to punish serious tax crimes which arguably warrant more serious deterrence (Turksen et al., 2018).

In spite of this distinction between criminal and administrative offences, the jurisprudence of the Court of Justice of the European Union and European Court of Human Rights (ECtHR) extends safeguards in criminal matters to the proceedings imposing administrative sanctions considered 'criminal' in the light of the *Engel* criteria (ECtHR, 8 June 1976, *Engel and others v. the Netherlands*, Appl. No. 5370/72). This interpretation has also been extended to tax matters. More specifically, the proceedings for the imposition of tax surcharges formally qualified as administrative in the domestic legal systems have been considered by the ECtHR as 'criminal' for Article 6 (Right to a fair trial), Article 7 (No punishment without law) and Article 4 Prot. No. 7 (Right not to be tried or punished twice) ECHR. For instance, in the *Jussila* case, the ECtHR has considered a surcharge of about EUR 300 as 'criminal' within the autonomous meaning of Article 6 of ECHR (ECtHR, 23 November 2006, *Jussila v. Finland*, Appl. No. 73053/01, §§ 29-39).

Depending on the national system, criminal and administrative sanctions may be applied alternatively or jointly (Rasmouki et al., 2019); as already underlined by the Advocate General Villalón, 'the imposition of both administrative and criminal penalties in respect of the same offence is a widespread practice in the Member States' (Opinion of Advocate General Villalón delivered on 12 June 2012, *Åklagaren v Åkerberg Fransson*, § 70). However, the combined imposition of such sanctions raises serious issues concerning the respect of the right not to be tried or punished twice for the same offence and the principle of proportionality that have been addressed by various decisions of the European and domestic Courts.

5 Inclusion of tax offences as a predicate offence to anti-money laundering regime is required by EU Law which has been driven by the implementation of the FATF Recommendations (FATF, 2012-2019).

Moreover, each jurisdiction in the EU defines tax crimes differently according to their respective criminal laws. Such a distinction primarily impacts the criminalisation of behaviours involved in tax crimes whereby a person may be liable under criminal law only if and where conduct falls under the definition of a specific offence. Moreover, it also impacts on the treatment of the crime, burden of proof and the proceedings for various tax crimes. The key aspects for further analysis are the legal sources of definitions, the definitions of the constitutive elements of tax crimes, and the impacts of these different definitions in the fight against tax evasion at national and EU level.

As far as the sources of the definitions are concerned, there is a tendency in the EU Member States to codify tax crimes through legislation both in civil and common law jurisdictions. The sources of tax crimes within a given jurisdiction are, however, multiple whereby in nearly all MS, there are generally numerous legal instruments addressing tax crimes which have implications for the definition thereof. In common law jurisdictions, although certain crimes derive from common law such as the common law offence of cheating the public revenue (Alldridge, 2017:p.53), tax offences are defined in statutes also. For example, the main tax crimes in Ireland, Section 1078 (*Revenue offences*) of the Irish Taxes Consolidation Act 1997 and Section 106A (*Offence of fraudulent evasion of income tax*) and in the UK, the English Taxes Management Act 1970 and/or false accounting offences under Theft Act 1968 or the Fraud Act 2006 stipulate various tax offences. Furthermore, tax authorities and judges also contribute to the definition of tax crimes in the different national legal systems. These must comply with the principle of legality in criminal matters in their activity of interpreting the text of tax crimes.

Concerning the last point, the ECtHR stated that the principle of legality under 'Article 7 of the Convention is not incompatible with judicial law-making and does not outlaw the gradual clarification of the rules of criminal liability through judicial interpretation from case to case, provided that the resultant development is consistent with the essence of the offence and could reasonably be foreseen'. The applicants may have fallen victim to a novel interpretation of the concept of 'tax evasion, but it was based on a reasonable interpretation of Articles 198 and 199 and 'consistent with the essence of the offence'. The Court conclude[d] that there was no violation of Article 7 on account of the applicants' conviction under this head (ECtHR, 25 July 2013, *Khodorkovskiy and Lebedev v. Russia*, Appl. §§ 791-821).

By considering the definitions of tax crimes in each legal system as a whole,[6] a distinction can be made between countries that adopt a few law provisions containing multiple definitions of tax crimes and countries that adopt multiple provisions, each defining tax crimes. A case where a single provision may provide for a plurality of definitions of tax

6 PROTAX examined 17 European jurisidictions and analysed legal provisions that apply to tax crimes. See, PROAX D3.1.

crimes is the Section 1078 Taxes Consolidation Act 1997 (*Revenue offences*) in Ireland. Paragraph 2 of this provision includes an extensive list of behaviours that may give rise to tax offences (e.g., from '(a) knowingly or wilfully delivers any incorrect return, statement or accounts or knowingly or willfully furnishes any incorrect information in connection with any tax, (…)' to '(j) obstructs or interferes with any officer of the Revenue Commissioners, or any other person, in the exercise or performance of powers or duties under the Acts for the purposes of any tax'.

As regards the contents of the definitions, the first differences relate to the identification of persons who may be punished for committing tax crimes. Certain countries only provide for the liability of individuals. For example, Germany has not yet introduced a corporate criminal liability, unlike many other EU countries. Other countries also establish the liability of legal entities: this is the case, for example, in the Czech Republic (Act No 418/2011 Coll., on Criminal Liability of Legal Entities and Proceedings against Them with reference to Retrenchment of Tax, Duty or any Other Similar Mandatory Payment under Section 240 of the Penal Code and Evasion of Tax, Social Security Insurance and any Other Similar Mandatory Payment under Section 241 of the Penal Code), Estonia (liability of legal entities for the concealment of tax liability and unfounded increase of claim for refund under Section 389(3) of the Penal Code), and United Kingdom (corporate offence of failure to prevent the criminal facilitation of tax evasion under Sections 45 and 46 of Part 3 of the Criminal Finances Act 2017).

A further distinction emanates from the constitutive elements of tax crimes. As for the objective element, tax crimes generally constitute breaches of tax obligations having heterogeneous contents across different legislation. Since the scope of the criminal provisions is affected by the tax rules, the main challenge to harmonise criminal sanctions depends on the harmonisation of fiscal policies at the EU level. The different formulations make the comparison of the legislative data much more difficult. Different titles used to identify tax crimes further complicates the comparative analysis. There are countries in which the titles are simpler. For example, Articles 33 and 39 of the Austrian Fiscal Offence Code (*Finanzstrafgesetz*) criminalise 'Tax evasion' (*Abgabenhinterziehung*) and 'Tax fraud' (*Abgabenbetrug*). Vice versa, there are other countries where the terms to identify the typology of tax crimes are more complex. For example, the 'Concealment of tax liability and unfounded increase of claim for refund' (*Maksukohustuse varjamine ja tagastusnõude alusetu suurendamine*) under Article 389 of the Estonian Penal Code (*Karistusseadustik*) is not easy to comprehend and apply even for experienced law enforcement agency staff (Rasmouki et al., 2019).

Moreover, EU MS adopt different approaches in identifying a tax offence and thresholds based on which such behaviour can be categorised as a crime under penal law (OECD, 2017:p.15; Rasmouki et al., 2019). These thresholds for criminalising a specific behaviour

are sometimes articulated in a general manner or in detail. These approaches have both strengths and weaknesses. The general definitions' capture a wide range of activities such as criminal actions that intend to defraud the government' (OECD, 2017:p.15) but appear to raise issues of respect of legality according to which tax crimes should be expressed with adequate precision and clarity. On the contrary, offences defined in more detail are more in line with the principle of legality because they include 'precise actions that constitute a crime' (OECD, 2017:p.15), but can lead to the impunity of non-criminalised offensive conducts.

As far as the mental element is concerned, even though tax crimes usually need a motive and/or an intention, in particular legal systems 'negligence is a sufficient subjective element (*mens rea*) to constitute the offence.' (Thirion & Scherrer, 2017:p.24). It is worth noting that many prosecutors indicated that demonstrating an intention to evade tax is often problematic for prosecutors and that there is a need to review threshold regimes (Rasmouki et al., 2019). Further variations of treatments concern the incitement, aiding and abetting, and attempt cases (Turksen et al., 2018).

With regard to the responsibility of companies, the distinctions concern, among other things, the entities subject to corporate liability, the types of tax offences arising corporate liability and the criteria for ascribing subjective liability. For example, in the UK, the legal framework goes even further to create a 'strict liability' offence whereby a company may be found guilty of tax evasion if they fail to prevent the facilitation of UK tax evasion and/or fail to prevent the facilitation of foreign tax evasion (Part 3 Criminal Finances Act, 2017).

The type and severity of sanctions imposed on tax crimes (fines, imprisonment, disqualification measures, confiscation, etc.) can vary significantly from one country to another (Rasmouki et al., 2019; Thirion & Scherrer, 2017:48-49; Seer & Wilms, 2016). These variations can influence not only divergences of law enforcement perception but also perception and movement of taxpayers to the most favoured/lenient jurisdictions - thus posing a threat to LEAs chasing tax offenders from one jurisdiction and destination LEAs having to deal with an influx of taxpayers with potential to undermine the integrity of the tax system (Rasmouki et al., 2019).

As a result of these diverse differences, 13 case studies conducted by PROTAX from 10 European jurisdictions (Turksen et al., 2018) established that the following complex methods used by high net worth individuals, transnational companies and organised criminal organisations to commit tax crimes were more likely to succeed beyond the enforcement capacity of some. These include the use of shell companies (missing trader), trusts, professional enablers, VAT carousel, profit shifting, and free ports (Turksen et al., 2018). While nearly all of these cases made use of enablers, about two-thirds of the cases (*R* v *Cahuzac;*

R v Shanly; and R v Hoeness) included tax havens and/or secrecy jurisdictions (Remeur, 2018), which allow the other complex methods to flourish. For many of these methods, ensuring clarity of offences, transparency and robust mechanisms could help mitigate the challenging terrain they provide for law enforcement. It is evident that greater protection for whistleblowers harnesses transparency and facilitates the detection of tax crimes (Turksen et al. 2018). Thus, the EU Directive (EU) 2019/1937 (Whistleblower Protection Directive) is a welcome development in this regard (Rasmouki et al., 2019).

It is generally accepted in criminal law in EU MS that blameworthiness and subsequent punishment should vary depending on whether the actor violated the law purposely, knowingly, recklessly, negligently, or non-negligently. However, when it comes to tax crimes, both the EU and its MS tend to rest culpability for the criminal act of tax fraud on the amount involved. In other words, the seriousness of the offence often depends on the money involved not merely on *mens rea* (guilty mind) or *actus reus* (guilty act).

The result of this approach is that illegality does not equate to criminality. Furthermore, almost exclusively across the EU, the impact of a tax crime is looked at as a revenue loss and the distorting effect it has on competition among businesses and intra-community trade is given scant attention. Tax crimes fuel taxpayers' inequity and often subsidise serious organised criminal activities (Feria, 2018). Current countermeasures are designed to minimise revenue costs rather than deal with fraud and the drivers of fraud. Under these circumstances, LEAs have to be more tactical and analytical in employing technology and cooperation to effectively rope in the extent of tax offenders that can be captured by the existing countermeasures. At the same time, LEAs need to build more persuasive architecture for enticing the minds of policymakers who may still not see the need to effectively balance the pursuit between revenue and criminal enforcement to enhance the integrity of the tax system.

Can existing cooperation mechanisms salvage the situation?

It must be noted that despite the existence of definitional differences of tax crimes among EU MS, the EU has strenuously and perhaps idealistically provided a number of legal instruments and several cooperation mechanisms to mitigate the effects of lack of tax crime definitional harmony on law enforcement. For instance, Directive (EU) 2018/843 (Recital 18; Articles 1(31-32)) and the above legal instruments, including Recital 11 and Article 57 of Directive (EU) 2015/849, do recognise the lack of harmonised rules and entreat EU MS to endeavour to cooperate and not allow the differences in tax definitions to impede the fight against tax crimes. At the same time, the Council Regulation 2010/904/EU of 7 October 2010, has provided for the use of simultaneous controls (Articles 29-32, in particular) and respect for the Eurofisc system (particularly, Article 33) aimed at fostering

cross-border cooperation of EU MS in criminal matters especially those relating to VAT. The Council Directive 2011/16/EU of 15 February 2011 provides for cooperation mechanisms on direct taxation on administrative terms but with consequences on criminal cooperation on law enforcement. However, these mechanisms have still not fully actioned or enforced and arguably cannot effectively fill the considerable gap provided by the lack of harmonised definitions of tax crimes in the EU.

For instance, Recital 18 of Directive (EU) 2018/843 cites the reported difficulties faced by Financial Intelligence Units (FIUs) in criminal tax information-sharing between them due to the 'differences in national definitions of … tax crimes'. This provision (Recital 18) goes to urge MS not to allow these differences to hinder cooperation in criminal law enforcement. However, PROTAX focus group discussions encountered repeated instances across the 10 European jurisdictions of the difficulties faced by LEAs in exchanging information. For instance, linguistic barriers and differences in degrees of criminalisation and/or threshold for tax offences to become a criminal activity came up as impeding speedy cross-border information exchange on countering tax crimes. So, for example, thresholds of tax offences between Bulgaria (EUR 1,500 for large-scale tax obligations) and Italy (EUR 100,000) were found to significantly differ (Reger, 2020). Panayi (2015) has highlighted the extent to which this lack of unified definition of tax crimes (Turksen, 2018) does adversely affect law enforcement action and even in the adjudication of tax cases in the CJEU (Panayi, 2015; Turksen et al., 2018).

While LEAs ideally would require these encumbrances to be eliminated, they, in the meantime, should leverage the cooperation mechanisms provided by the current EU legal arrangement such as exploiting the joint investigation teams and mutual legal assistance through greater transparency, mutual understanding, and effective and efficient communication between LEAs. In consolidating any gains and addressing existing weaknesses, it is imperative that these processes gradually yield to a system where there would be solid grounds upon which criminal tax offences can be commonly identified by actors across the criminal justice system.

Conclusion

The different definitions of tax crimes impact on the repression of tax evasion behaviour at a national and EU level. The EU has recently required MS to criminalise VAT fraud through the Directive (EU) 2017/1371 with the consequent introduction of a minimum common definition for this type of crime (Juszczak & Sason, 2017). However, what seems like a discretionary requirement under this directive - the threshold of EUR 10 million before a tax offence should become a crime - may be seen as a soft touch and hinders the aim to criminalise tax offences.

Despite these notable and nominal steps forward, the issue of common definitions of tax offences remains a central issue in combating tax evasion in the EU. On the one hand, the criminalisation of tax law violations aims to ensure the taxpayers' compliance with legal obligations whilst securing the availability of criminal investigative and enforcement powers (OECD, 2017:p.14). This impacts on tax revenue, thus also economic development, fair competition and social cohesion across the EU.

Although the EU has strengthened the instruments of judicial cooperation in criminal matters in general, and with tax offences in particular,[7] the different definitions of tax crimes and the lack of common legal base hinder the effectiveness of countermeasures.

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7 For example, Article 4(1) of Council Framework Decision 2002/584/JHA provides that 'if, in one of the cases referred to in Article 2(4), the act on which the European arrest warrant is based does not constitute an offence under the law of the executing Member State; however, in relation to taxes or duties, customs and exchange, execution of the European arrest warrant shall not be refused on the ground that the law of the executing Member State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing Member State.'

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Legal Instruments

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Image/Video Forensics: Theoretical background, operational approaches and best practices

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Abstract
Images and videos, which have always had a huge impact upon the way people perceive the world and form their convictions, are pervasive in today's reality more than ever. Even in the forensics scenario, evidences are more and more often composed by multimedia in general and visual data in particular. Since the new meaning of "original data" in this digital world requires new approaches to ensure the admissibility of these elements as evidence in a trial, starting from the first years of this century the need to prove the authenticity of a digital evidence became crucial. This work introduces the sub area of Digital Forensics, which has the aim to define and develop the procedures devoted to help operators in this challenging research area. After an introductory part, the topic of this paper was introduced, starting from the meaning of digital evidence, and following with the definition of Image / Video Forensics as a branch of the forensic sciences. Then some methods allowing the extraction of significant information from the images when it is not readily available are examined in detail. Finally, a list of free and non-free software devoted to face the daily challenges coming from processing images and videos for forensic purposes is provided. The work ends with a list of publications containing the Best Practices in the field.

Keywords: *Image/Video Forensics, Image/Video Tampering, Digital Forensics, Image Authentication*

The impact of images in today's reality

Nowadays our whole life is becoming increasingly more reliant upon images. Virtually all our visual memories are stored in real-time in our devices, on the cloud (often without even realizing it), and possibly shared through the web. The amount of multimedia data created each day on the Internet is massive and impressive. According to (Schultz, 2017), in 2017 more than 4 million hours of content have been uploaded to YouTube, with users watching 5.97 billion hours of YouTube videos, 200,000,000 photos have been uploaded on Facebook and 67,300,000 pictures have been posted on Instagram. This enormous pervasiveness of images has a lot of consequence in all aspects of our everyday life. If it is true that "a picture is worth a thousand words" (Brisbane, 1911), it is straightforward asking ourselves how many times we form our own conviction about an event, simply looking at the relative image or footage presented to us by the media. In most of the cases, simply there is no time to investigate if a visual information is true or false, so people often trust what sometimes is a fake. The danger in this behavior lies in the fact that once an opinion is rooted in this way is very hard to remove it (Nash et al., 2009; Sacchi et al., 2007). The lack of human ability to distinguish between tampered and original images (Schetinger et al., 2015), helps to increase the risk for humankind to be fooled by malicious agents. The overall feeling for the importance of the issues connected with the Integrity Verification in Multimedia is constantly increasing.

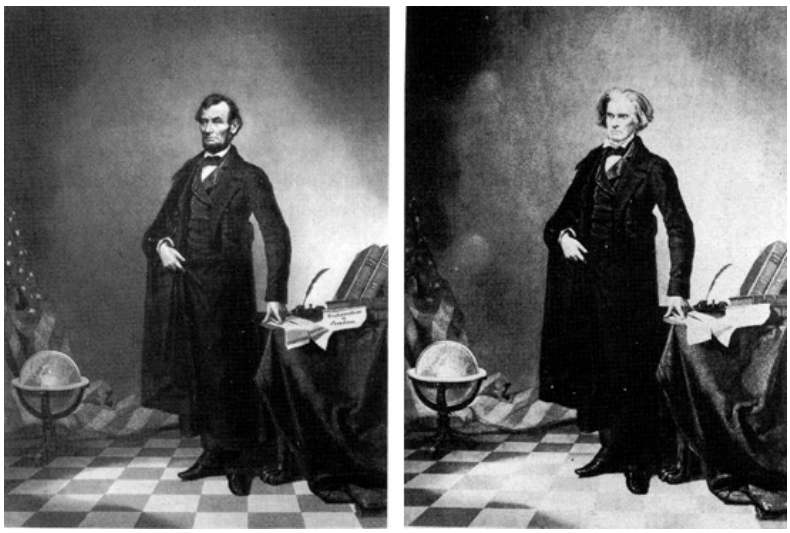
In the forensics scenario, a natural consequence of this pervasiveness of visual sources of what is called "liquid knowledge" is that, always more often, one (or more) image(s) or video(s) could become fundamental evidence in legal trials, and one of the main steps in the investigations is devoted to ascertain the originality of these evidence. In addition, like all the findings used as evidence, images and footage become valid and therefore admissible, only if they had been acquired, processed and stored according with the prescribed procedures.
How can we trust an image or footage in a forensic environment? How can we be sure about the source from where they are supposed to come and, most of all, how can we prove that the visual content that we would like to validate as an evidence (possibly a primary one) has not been altered? To all these questions we will try to answer on the following pages.

Image tampering: from handmade retouches to deepfakes

Despite what one might imagine, the first documented examples of image manipulation (Figure 1) date back to 1860, only a few decades after the birth of photography (about 1830). Although the motivations of this photo-editing have never been clarified, it is thought that the reason of this first version of "*cut-and-paste*" forgery was the best physi-

cal appearance of the politician John Calhoun compared to the one of president Lincoln. From that episode, there had been thousands of cases in which more or less important images have undergone to substantial changes, most of them available on the famous website http://pth.izitru.com/.

Figure 1: On the left, the picture known as the first photographic counterfeiting (circa 1860), is obtained by combining the head of American president Abraham Lincoln with the body of the southern politician John Calhoun (right). Images from http://pth.izitru.com/.



In the first decades of 20th century, image tampering methods began to be classified and listed in papers and manuals, as the one showed in Figure 2 (Wardell, 1946), although this practice, from a technical point of view, remained virtually unaltered and limited to a small group of experts during all of the analogical era. This is a fundamental issue that needs to be highlighted, since nowadays, instead, the wide spread of acquisition devices (every smartphone embeds a camera, often provided with a powerful software suite able to modify the acquired images on the fly), and a huge number of manipulation software, often downloadable for free from the web, allow everyone to obtain unbelievable results in images manipulation. These instruments, and in general the different concept of "originality" that applies to digital and analogic worlds, heavily impact the reliability of a digital visual content when it is presented as an evidence in a trial.

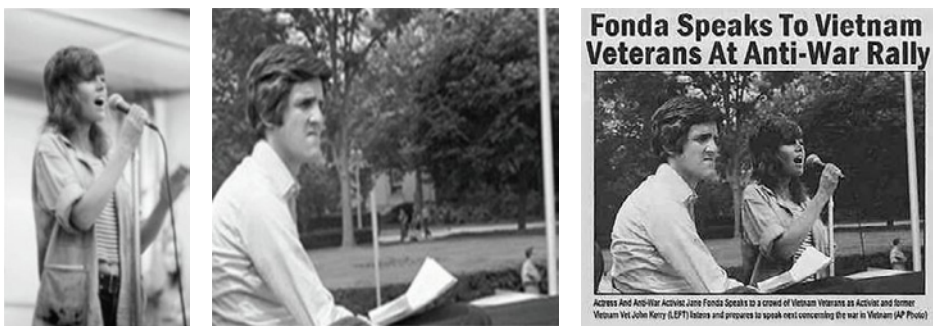
Figure 2: The cover and some pages of one of the first manuals (this was made in 1946) that listed the instruments and approaches to retouch an image. Images from https://petapixel.com/2013/05/08/how-photographers-photoshopped-their-pictures-back-in-1946/.



During 2004 Presidential primaries, as Senator John Kerry was campaigning for the Democratic nomination, the image at the right of Figure 3 appeared, showing Kerry and Jane Fonda sharing a stage at an anti-war rally. Its caption was: "*The actress and anti-war activist Jane Fonda speaks to a crowd of Vietnam as activist and former Vietnam vet John Kerry (LEFT) listens and prepares to speak next concerning the war in Vietnam (AP Photo)*".

The picture was later determined to be a fake. Indeed, it was composed by a picture of Senator Kerry captured in June 1971, while he was preparing to give a speech at the Register for Peace Rally in Mineola, New York, and an image of Jane Fonda which has been shoot while she was speaking at a political rally in Miami Beach, Florida in August 1972. The aftermath on the campaign of the candidate Kerry were enormous.

Figure 3: The image in the middle was shot in June 1971, the one on the left in 1972. The right image, obtained as a result of a copy-paste (also known as "splicing") between the two other images, appeared during the 2004 Presidential primaries, pretending to depict Senator Kerry and Jane Fonda together in an anti-war event. Images from http://pth.izitru.com/.



In Figure 4 (left) is showed an image published in 2011 by the Saudi-owned English news website Al-Arabiya, under the headline "Russia refuses to recognize Libya rebels as legitimate government, clashing with West". The fighter jets were digitally inserted as appears checking the original photo (by Marco Longari for AFP/Getty), that shows Libyan rebel fighters near a checkpoint on the outskirts of Ras Lanuf.

Figure 4: In the upper image showed at http://pth.izitru.com/2011_07_01.html we can see an image published in 2011 by the Saudi-owned English news website Al-Arabiya, under the headline "Russia refuses to recognize Libya rebels as legitimate government, clashing with West". The fighter jets were digitally inserted as appears seeing the original photo below (by Marco Longari for AFP/Getty), that shows Libyan rebel fighters near a checkpoint on the outskirts of Ras Lanuf.



In a shocking TED speech titled *Fake videos of real people — and how to spot them*, in April 2018 Supasorn Suwajanakorn, an American expert of Computer Vision and AI, presented his work (Supasorn, Seitz & Kemelmacher-Shlizerman, 2017) about how producing an artificial video. They started from an audio track of the President Obama's voice, a database of his previous footages, modeled the mouth shape at each instant, and composed it with proper 3D pose matching the input audio track. Their approach was then compared (see Figure 5) with the real video from where the audio was extracted, and the results were amazing.

What would have been the outcomes of John Kerry's election campaign without the circulation of the manipulated image? Which are the social and geopolitical consequences among the Arab population when tampered images similar (or worst) to the one in the left side of Figure 4 appear? What would happen if a fake video of the president of the United States, artificially built with a Neural Network algorithm, nowadays known as deepfake (Verdoliva, 2020) would annunciate an unexpected change on the US economic policy? Nobody really knows the answers, but the underlying message is that, now more than ever, every image or video before being considered a witness of the real world, must undergo to an authenticity verification process. If this validation is required in a forensic scenario, the applied methods are known as Image/Video Forensics techniques. To these approaches, and to the related issues, is devoted the following of this paper.

Figure 5: A frame of the 2018 TED by Supasorn Suwajanakorn, where the researcher exposed a comparison between an original footage of a speech by Barak Obama, and its synthetic copy modeled with Artificial Intelligence approaches using the real audio track and a database of footages of president's speeches. The mouth, face and body movements are reproduced and coordinated with the audio of a talk that really happened, but what about if these techniques were used to generate a fake footage where a politician pronounces some dangerous statements? Screenshot taken by the author from the TED video https://www.youtube.com/watch?v=o2DDU4g0PRo



Image/Video Forensics as a part of the forensic sciences

A Forensic Science (often shortened to Forensics) is the practical application of science to matters of the law, and in particular the use of scientific methods for obtaining probative facts from the so called *scientific evidences*. These are defined as: *evidences that are provided by some scientific-technical tool with the addition of specific technical skills, possibly with the intervention of an expert in the specific field* (AA.VV., 2008).

One of the forensic sciences becoming more and more relevant nowadays is the one known as *Digital Forensics*. Its earliest notion came when the *Federal Rules of evidence* (US), first started to discuss digital evidence in the 1970s, even if real Digital Forensics investigations started in the mid-to-late 1980s, when federal agents had to start figuring out ways to search for digital evidence inside computers. This "home-grown" bottom-up approach continued until the late 1990s, when security researchers at universities and labs started to figure out that this problem was big enough to warrant investigation. First research groups started around 2000 or 2001. At present time, Digital Forensics includes many subareas, as exposed in Figure 6, and can be described in two different ways, with respect to different important aspects:

- *its purposes*: the use of scientifically derived and proven methods towards preservation, collection, validation, identification, analysis, interpretation, documentation and presentation of digital evidence derived from digital sources for the purpose of facilitation or furthering the reconstruction of events found to be criminal, or helping to anticipate unauthorized actions shown to be disruptive to planned operations (Beebe, 2009).

- *the need of the intervention of an expert*: the science of locating; extracting and analyzing types of data from different devices, which are interpreted by specialists in order to be used as legal evidence (Fenu & Solinas, 2013).

The emergence and rapid growth of Digital Forensics spawned the need to define the "new" entities that needed to be addressed. In accordance to the still defined "scientific evidences", these entities took the name of *digital evidences***,** defined[1] as: *digital data that can establish, or negate, that a crime has been committed and can provide a link between a crime and its victim, or between a crime and the perpetrator.* From a practical point of view, a digital evidence is composed by a digital content, often stored in a file of whatever format or kind, and it is characterized by the following attributes:

- *Volatility*, such as residues of gunpowder. As an example, let us imagine the artifacts left by a chat with an Internet browser set on a private browsing mode: once the device is shutting down, that data are likely to disappear forever;

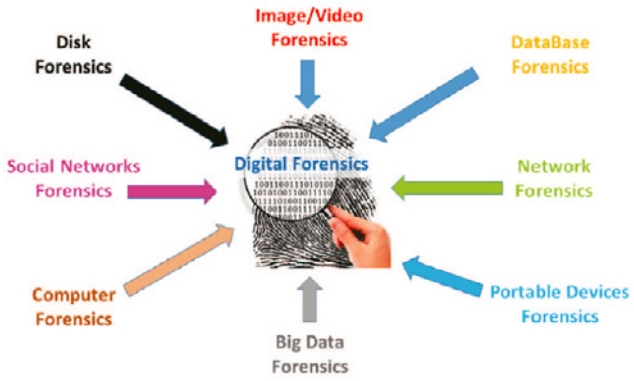
- *Latency*, such as fingerprints or a DNA evidence. This is the case of data that have been erased or hidden;

- *Easy to modify or to spoil,* since reliability of digital data are intrinsically fragile. Indeed, with a simple copy-paste operation is possible to modify the strength of a digital evidence.

As shown in Figure 6, one of the main subareas that compose the Digital Forensic universe is the one devoted to the analysis of images, also known as Image/Video Forensics, a forensic science carried out since the very first photos were made. We can find a formal definition of this set of approaches on the FBI website, where we can read that "*Forensic Image Analysis is the application of image science and domain expertise to interpret the content of an image or the image itself in legal matters*". From this sentence it is possible to identify the main aspect that should characterize every forensic approach to the analysis of an image: it must be provided by someone both *with adequate technical skills*, able to extract from a digital file (or device) the requested information, and *with a solid experience in the forensic environment*, thus with such an approach that allows him/her to look at the digital *data* as digital *evidences*.

1 Definition proposed by Carrier in 2003 and slightly modified by the author of this paper.

Figure 6: An example of possible division of Digital Forensics in sub areas. It is very difficult to separate these components, since often they are closely connected. As an example, if we have to extract a chat session made using WhatsApp stored inside a smartphone (a Portable Devices Forensics' issue), we surely must use Computer Forensics's rules, adding some attentions related to the fact that information in that kind of device may changes during the analysis (if the cell phone is connected to the net). The extracted information is then examined according to DataBase Forensics.



Classification of Image/Video Forensics approaches

Since the variety of questions that could arise in a trial, or in the various steps of an investigation, facing Image/Forensics topics requires a wide experience in different areas of Computer Science. In the following, we give some examples of queries, preceded by the specific area of interest:

- *Image Enhancement*: Is it possible to improve the image/video quality in order to extract the license plate?
- *Image Authentication*: Did the images/videos undergo some alteration or are they authentic?
- *Camera Ballistic:* Can we state that an image/video come from a certain device?
- *Source Identification:* Do the images / videos come from a real scene, or are they artificially created using Computer Graphics (CG) methods?

The above argumentation, justifies a deeper insight into the categories that compose the entire Image Video/Forensics approaches. Among the various classifications in literature,

we decided to expose in the following one proposed by Redi, Taktak and Dugelay (Redi, Taktak and Dugelay, 2011), since widely accepted by the scientific community.

Image Forgery Detection/Image Authentication.
These methods include the various approaches that try to discover malicious modification in an image or a footage. This allows to highlight the physical, geometric, or statistical regularities (also named as patterns) that are inserted during the creation of a fake. Although Image Forgery Detection and Image Authentication can be viewed as two sides of the same coin, since if we found a forgery on a media, this can be claimed to be not original, the opposite it is absolutely not true and this fact has a huge impact in the forensic scenario. Indeed, even after the negative response given by all known methods, we cannot state that "*the image or video is authentic*", but only that "*there are no visible traces of tampering*".

The approaches can be classified according to several criteria. A first discrimination can be done with regards to the way the tampering is obtained:

- fake images created by using Computer Graphics (e.g. artificially generated/modified objects or details), or Machine Learning approaches (e.g. deep fake videos);

- alteration of the image semantics without modifying subjects or objects contained (e.g. color variations and/or brightness, resizing);

- alteration of the image semantics by the insertion (e.g., copying and pasting) or elimination (e.g. cropping or deleting) of significant parts.

A subclassification of this sets of methods (Farid, 2009; Piva, 2013), starting from the pipeline of all the steps that characterize the creation of a digital image inside a camera, takes into account and leverages the irregular patterns that a forgery leaves on the picture:

- *Pixel Based* methods, were we search for the artifacts appearing at the border of neighboring blocks as horizontal and vertical edges. In some cases, when an image is manipulated, these blocking artifacts, or correlations, may be altered;

- *Statistical Based* methods. Apart its semantic meaning, an image is basically an *n* x *m* table of values, from which many statistical proprieties can be inferred. Some of them have been proved to give useful insights in case of tampering;

- *Format Based* methods. The knowledge of the particular artifacts introduced in the image formation procedure of the lossy JPEG compression scheme, allows to distin-

guish between single or multiple compressed images and, in the latter case, understand if different parts of the image possess traces of different quality factors;

- *Camera Based* methods, that specifically model artifacts introduced by the various stages of the imaging process (i.e., lens, colour filter array, sensor);

- *Physics Based* methods, that leverage the inconsistencies in the estimated position of the source of light, obtained with proper mathematical models. Indeed, if the image is a copy-paste made with parts of different scenes, the source of light that illuminates the various objects will results with hight probability as inconsistent;

- *Geometric Based* methods, aimed to find inconsistencies caused by the geometrical model that describes the formation of the image inside the camera.

Source Camera Identification

The aim of this important group of approaches is the identification of the device (when its ID is available we can find the exact one, more often we can only identify its brand) that first shot the image. Sometimes the first step is devoted to discriminate between natural or artificial (also known as computer-generated) images. In general, the methodology switches to the identification of the source that generated the image, ascertaining the type of device (scanner, camera, copier, and printer) and then trying to determine the particular device.

Image Reconstruction/Restoration/Enhancement

Restoration and improvement of quality of deteriorated images in order to identify, even partially, the original content and/or retrieve useful information (Gonzalez & Woods, 2002). About these issues, that represent very common needs in nowadays investigations, we want to highlight an important principle, even if the risk to seem too trivial is high: such methodologies of information retrieval can be used to extract the requested information *only if this data is actually present* in the examined footage or image. An example in this sense (unfortunately still very common) concerns images acquired by video surveillance devices. Indeed, in many cases, although able to record a criminal event, the footage is useless due to the poor quality of the images captured by the video camera: it is not possible to enhance an interesting detail, since the wanted data simply does not exist, and should not be artificially created.[2]

2 Clear examples of what an Image/Video Forensics will not ever be able to do, is the so-called "CSI effect": impossible zooms, 3D reconstructions without any scientific basis, and so on, well represented online by video as the one available at the URL: https://www.youtube.com/watch?v=Vxq9yj2pVWk. Due to the popularity of these fictions, the number of citizens and colleagues asking us to use the same "magic powers" is still very high. Even if, sometimes, a kind of miracle seems to be feasible, as exposed in Figure 8.

Steganalysis

Sometimes, information is hidden within an image with steganographic techniques, e.g., by changing the least significant bit in the binary number that defines the color of a pixel in a RGB representation, known as LSB approach (Battiato & Moltisanti, 2012). Steganalitical methods allow to understand if this kind of techniques was used, that is itself an important alert, and sometimes to recovery the covered data (Fridrich et al., 2002).

2D/3D Reconstruction and Comparison

The methods belonging to this group are devoted to bi/three-dimensional information extraction, to derive measures or reference values (e.g., the height of an individual) and for the comparison between images (e.g., to compare the identity of a subject with the known offender from a footage taken by a video surveillance system). Since this information can be very precious, although, surprisingly, the underlying theory comes from a century ago (the pinhole camera model), and even from before the Italian Renaissance (the principles of the perspective theory), two approaches belonging to this group are going to be exposed in some detail in the next Section.

Reconstruction of 2D and 3D scenes from images

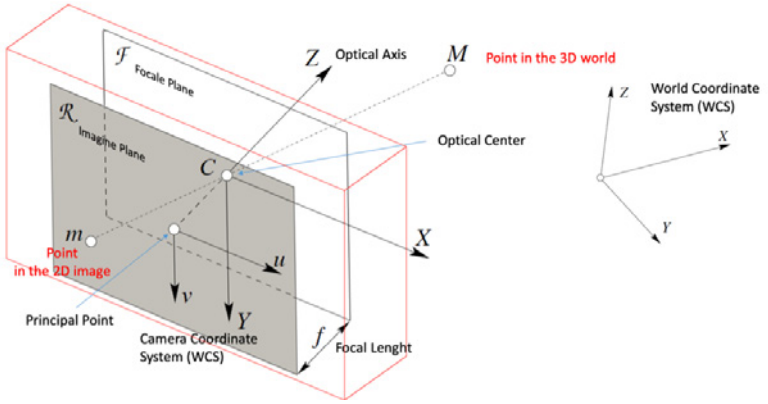
Although every Image/Video Forensics approach leans on a strong theoretical background, it is impossible to fully illustrate in this paper all the cited methods, together with the corresponding underlying theory. So, as anticipated at the end of the previous section, we made a choice, giving details on two situations often arising during an investigation. In the first one, the information is already present in the picture, even if not clearly visible, and can thus be derived. In the latter case is necessary to go back on the location where the image was shot. Both approaches have in common that it would be impossible to tackle them without knowledge of perspective and its applications to computer vision.

The classic Pinhole Camera model

According to (Criminisi, 2002) when a photo is taken, every *X* point in the 3D world is projected (mathematically, "mapped") in the two-dimensional plane of the image in a corresponding point *x*. The latter is the intersection of the image plane with the line segment that joins the optical center O of the camera and the *X* point of the shot scene (Figure 7). The algebraic interpretation of this projection is summarized by (1), where

$$x=\mathbf{P}X \tag{1}$$

Figure 7: The formation of the image can be mathematically modeled as an operation that transports (maps) 3D real- points into a 2D plane (the camera sensor) that matches the image. In red the position of the pinhole camera.



P is a mathematical operator called "*projection matrix*", a table whose coefficients define the rules for the transformation of the real points into image points. If we are able to know (or at least reconstruct in some way) the matrix **P**, we have the possibility of reversing this transformation. In other words, *starting from a point on the image, we can determine its position within the real scene that the image reproduces*. In practice, unfortunately, complete rebuilding the projection matrix might not always be possible.

Rectification of plates

Under certain conditions, or when it is possible to find information on the camera that shot the image (step known as *Calibration*) and/or some measures of the objects portrayed in the image, the number of unknowns needed to define the matrix is greatly reduced. An example of this, one of the most frequent questions made by colleagues, is the so-called *Rectification*: if we assume that a region that is first manually defined (corner points of the plate) in the left image is a planar rectangle, we "only" have to compute a 2D set of transformation parameters. In the example exposed in Figure 8 we see that is possible to transform the skewed object into a proper rectangle, thus being able to highlight the numbers of a car license plate.

Estimation of heights

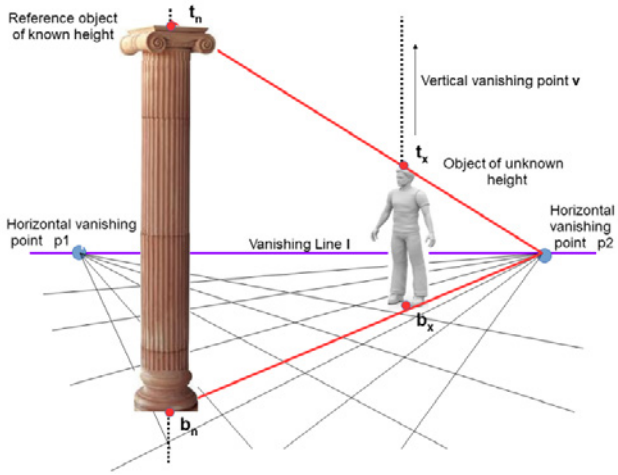
With three-dimensional objects, if we need to estimate the height of a subject, it is necessary to first retrieve the real measurements of some other objects or elements present in the image (which can be recovered also afterwards). As an example, Law Enforcement operators could return to the place where the photo was taken to manually detect the measure of a door, a window, or part of a house.

Figure 8: Example of Rectification. It can be appreciated how, in case of planar surfaces, the perspective transformation highlights the information relative to the car license plate.



Otherwise, this information can be derived from appropriate documentation, if present. The second step to be taken consists in extracting from the image a series of characteristics known as vanishing points and lines (Figure 9). In the literature there are many algorithms allowing to estimate these geometric entities directly from the image, without knowing the *intrinsic* parameters (concerning the internal settings of the camera) or *extrinsic* ones (concerning the positioning of the camera relative to the scene) (Criminisi, 2002; Szeliski, 2010).

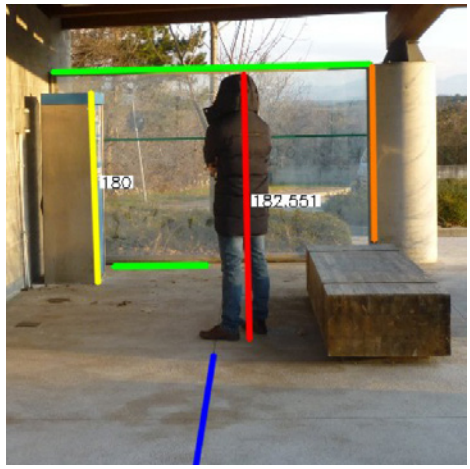
Figure 9: Estimating the size of a subject in an image or footage requires the calculation of vanishing points, horizontal and vertical. In the figure, the height of the person is obtained using a known dimension (the height of the column), the horizontal vanishing points (p_1 and p_2) and vertical points (v) as well as the vanishing line (or horizon line).



Searching for information in images, sometimes we can go far beyond the simple extrapolation of single measures, like heights of people or objects. Indeed, increasing the number of "real" measures detected, it is possible to extend the above methods up to reconstructing the entire 3D scene from which the image is taken, as well as the position of the camera at the time of shooting, an information that could be very useful in an investigation. An example of an implementation of the aforementioned theory is shown in Figure 10, where the height of the object in the background was used as reference dimension for estimating the height of the person in the image using Amped FIVE software[3].

We want to point out that, like all estimation methods, the processes described above are subject to errors that may derive from multiple sources: the incorrect collection of reference measurements, an incorrect set of pixels selected as a reference distance, an (even light) distortions of the image (e.g. lens distortion, blurred, poor definition), or if the subject is not perfectly in vertical position, etc. For this reason, the percentage of error must always be indicated together with the estimation of the requested data.

Figure 10: Example of estimation of the height of a person from a single image: on the left of the image the reference height of an object, that is necessary to take manually. Screenshot taken by the author from the web page of the commercial software Amped https://ampedsoftware.com/it/five-samples.



3 See https://ampedsoftware.com/it/five-samples.

Solutions to practical problems arising in the everyday scenario

After a theoretical introduction and a list of some approaches in Image/Video Forensics, and before the conclusions, we think it may be useful giving a list of "tips and tricks" for the daily use. This because, in our personal experience, investigators and police officers "on the battlefield" rarely face problems like "reconstruct the 3D scenes of a crime", whereas, as an example, quickly determining a car's plate, or extract "the good frame" from a footage, or enhance an image, are questions that are much more likely to be addressed. For this reason, we inserted the following list of "how to", hoping to cover the most important questions arising in an everyday scenario. For every single goal to be achieved we suggest a free software, which, in our experience, can help to solve the problem. The premise is that, for every listed need, every given solution could in general be achieved by more than the suggestion provided here.[4]

- **Extract EXIF data from an image:** As already pointed out, an image or a video are not only bearers of a visual message, but also of a plethora of further useful information, especially for an investigation, stored in an image file saved in jpeg-format. The ability to extract details as GPS-coordinates, time and date of shooting, the (sometimes exact) model of the devices that took the image, and other interesting features, could sometimes determine the outcome of a trial. *Jpegsnoop*[5] is a good software for this purpose.

- **Find out if a given image has been taken from some source on the web**: Sometimes fake images, or part of them, are simply "copied and pasted" from some website. With the "Reverse Image Search" provided by Google[6], it is possible to upload an image from a memory location, or giving the url of its location on the web, to locate, if any, the website(s) where to find the same image.

- **Eliminate the fisheye effect from an image**: Very often the footage or images coming from a CCTV-system inside a bank, or from a surveillance system which has to cover large areas with a single camera, are affected by this distortion. VLC[7] includes a filter that allows to eliminate it.

- **Eliminate the effect of an interlaced video**: Interlacing consists in the transmission of images by alternating their odd and even lines, since persistence of vision makes the eye perceive the two fields as a continuous image. Although allowing an high

4 A more exhaustive list of software can be found at https://s-five.eu/Related_software_and_tools.htm and https://s-five.eu/Software_and_tools.htm.

5 https://www.impulseadventure.com/photo/jpeg-snoop.html

6 (https://images.google.com/)

7 (https://www.videolan.org/vlc/index.it.html) includes a filter that allows to eliminate it

level of band saving, it unavoidably leads to loosing quality in the video. Again, the free software *VLC* incorporates a function which allows to de-interlace the video sequence.

- **Extract single frames from a video sequence:** Occasionally this feature can be useful when we must decide the best frame to work with, i.e. to enhance a particular. A function provided by *Irfanview*[8] allows extracting all or part of the frame of a footage, saving them in a proper folder.

- **Rotate or cut a video sequence**: Again, a functionality owned by *VLC*.

- **Clean an audio track**: Sometimes this operation could be necessary after extracting the audio from a footage. The best free and open source software for this need is *Audacity*[9]. It allows enhancing the quality of an audio file affected by different source of noise, together with a lot of interesting function as cut and paste, volume-increasing, and so on.

- **Extraction the audio track from a video**: As above, *VLC* offers this feature.

- **Enhance the general aspect of an image**: An enormous list of filters for this purpose is given by *Irfanview*.

There is of course, a variety of commercial software available for the purpose of forensic image and video analysis.

Best Practices

Up to now we showed some theoretical approaches, practical methods, and software which in general allows to an expert acquiring more knowledge upon an image, a video and (even if only marginally) an audio file. In section entitled "Image/Video as a source of evidence", and in the subsequent, we briefly tried to define what does it means facing a "digital" evidence. We started to point out which are the precautions that an expert has to keep in mind in an investigation, which essentially come from the fact that, in the digital era the ideas of "original" and "copy" are very different from the classical ones. For this reason, together with the need of standardization belonging to the forensic world, the new approaches that the operational experience certifies as robust define the so-called

8 (https://www.irfanview.com)

9 (https://www.audacityteam.org/)

"Best Practices" in this challenging forensic science. Regarding the specific field we want to mention:

- ISO/IEC 27037: Guidelines for identification, collection, acquisition and preservation of digital evidences (https://www.iso.org/standard/44381.html).
- ISO/IEC 27042: Guidelines for the analysis and interpretation of digital evidences (https://www.iso.org/standard/44406.html).
- ENFSI Best Practice Manual for the Forensic Examination of Digital Technology (http://enfsi.eu/documents/best-practice-manuals/).
- ENFSI Best Practice Manual for Facial Image Comparison (http://enfsi.eu/documents/best-practice-manuals/).
- ENFSI Best Practice Manual for Forensic Image and Video Enhancement (http://enfsi.eu/documents/best-practice-manuals/).
- All the Best Practices and guidelines from SWGIT/SWGDE site (https://www.swgde.org):
- All the Best Practices and guidelines from NIST/OSAC site devoted to Digital Forensics (https://www.nist.gov/topics/digital-evidence)

Conclusions

The use of images as a source of evidence, in police investigations and in general in a judicial proceeding, is a practice which dates back from the analog era and greatly increased with the advent of digital devices. At the same time, the ability to provide this type of documents without alterations that could compromise their usability in the process is increasingly put at risk by the diffusion on the market of devices and programs capable of altering the output of an acquisition device. Indeed, if about twenty years ago only a few people could manipulate images or videos, as this practice was reserved to few professionals with the necessary experience and equipment, today anyone connected to the web can access a huge number of tools and knowledge that allow him, in a short time and with few resources, to obtain results that are virtually indistinguishable from those of an expert. This situation endangers the success of many legal proceedings and, consequently, the need to develop, formalize and catalog the methods to contrast these malicious practices has become increasingly concrete and unavoidable. These approaches, born starting from the early years of this century, are known as Image/Video

Forensics methods and were the subject of this work. The provided overview, far from being exhaustive, should be used, in the author's opinion, as a reference in this multidisciplinary science, whose knowledge, at least at a basic level, cannot be missing from the cultural background of a professional who works in the forensic environment, whether investigator, lawyer, judge or prosecutor. In the future we believe that researches in this field will lead to important steps forward, mainly in faces identification and recognition, as well as in the analysis of images and videos for fakes detection purposes.

This paper has been made possible by the fact that the author, in parallel with 3 decades of experience as a law enforcement agent, has had the good fortune to get in close contact with researchers from the academic world. This multiple experience, allows him to be aware that very often academia doesn't know which are the need of law enforcement agencies, and at the same time law enforcement agencies don't know what academia could be able to do for their needs. The increasing attention towards Multimedia Forensics, and in general to every IT approach to a real forensic scenario, requires to multiply efforts to finally reach a situation in which academia and law enforcement operators could talk each other more efficiently.

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INTIMATE PARTNER VIOLENCE – findings and lessons from a national deterrence policy

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Abstract
The ongoing pandemic is highlighting the fragilities of intimate partner violence deterrence in most European countries. The main objective of this research was to identify the outcomes of a national deterrence policy of intimate partner violence, complemented by special protection and support measures for mistreated women. One outcome was an increase in the prosecution and punishment of intimate offenders. The other was an apparent failure to reduce the prevalence of intimate partner violence against women. One of the possible causes for this failure can be a comparatively lower law enforcement investment in the persecution and punishment of intimate offenders.

Keywords: *intimate partner violence; deterrence; Portugal.*

Introduction

A violent intimate relationship terrorises the life of those subjected to such violence. Violence takes place in an environment believed to be a safe one but where a person, who's expected to respect and care for, is, in fact, doing exactly the opposite.

In an intimate relationship, violent behaviour can be persistent or a unique event and can be triggered by a large number of causes. Available evidence suggests that most violent

behaviours, in intimate relationships, aim at subjugating, dominating and controlling one of the partners (Johnson, 2016).

As most non-violent behaviours, violent behaviours, aiming at subjugating, dominating and controlling an intimate partner, usually emerge from a positively reinforced learning process (Swan et al., 2018), not from a personality trait or disorder. Looking at intimate partner violence as an outcome of a social learning process helps understanding why women are the most frequent targets of intimate partner violence. Most human societies still expect males to control and dominate an intimate relationship, and to learn how to do it, effectively and by coercive means if necessary. Male power, control, and domination, in intimate relationships, is socially driven, and legitimised by a vast array of religious, cultural, biological or psychological presumptions of asymmetric gender capacities and roles.

Males are driven to control and dominate their intimate relationships, and soon learn that society tolerates whatever type and level of violence they use to achieve it. That is, that society usually does not impose an unbearable cost on those resorting to violence in intimate relationships. Tolerance, towards male power, control, and domination, is certainly one of the main causes of intimate partner violence (Daly & Chesney-Lind, 1988; Buzawa & Buzawa, 2003; Costa et al., 2015; Johnson, 2016; Herrero et al., 2017).

Presumptions of asymmetric gender roles, imposing effective different rights and opportunities, and tolerance, towards the use of male violence in intimate relationships, are also key constraints to women's capacity and ability to break and move away from a violent intimate relationship (García-Moreno et al., 2015). Tolerance usually implies, for women, a strong concern of personal safety and fear of further violence even when they break and move away.

National policies, aiming at reducing the benefits, and at increasing the costs, of resorting to violence, in other types of human relationships, may have played a role in a long-term drop of most violent crimes in advanced societies (Eisner, 2014). It is therefore theoretically expectable that a deterrence policy, aiming at reducing the benefits, and at increasing the (legal) costs, of resorting to violence, in intimate relationships, has similar results.

The main objective of this research was to identify the outcomes of a national deterrence policy of intimate partner violence, complemented by special protection and support measures for mistreated women. The studied national policy started by criminalising, in 1982 and following mainstream deterrence theory assumptions, intimate partner violence. Special protection and support measures for women, needing to break and move away, from a violent intimate relationship, soon complemented criminalisation.

Deterrence theory assumptions

One main assumption of deterrence theory (Durlauf & Nagin, 2011), building from the classical school of criminology and its belief in human behaviour governed by rationality and rational choice (Beccaria, 2007 [1764]), Bentham, 1996 [1781]), is that certain, swift and severe (legal) punishment enhances compliance to existing laws and deter unlawful behaviours. Such happens because it increases cost perception (Becker, 1968) of resorting to an unlawful behaviour.

Civilising process theory (Pinker, 2011; Eisner, 2001; 2014), building from the work of Elias (1989 [1939]), additionally assumes that, in advanced societies, personality structures transform in the direction of increased self-control of violent behaviour, partially driven by fear of external negative reactions to such behaviour, being one the fears legal prosecution and punishment.

Civilising process theory also assumes that modern societies are gradually developing a culture of non-tolerance towards most forms of violence. The development of such culture is, however, not entirely a self-induced and self-sustained process. It depends on how national states are able to consolidate and legitimise, through a process of political democratisation, a state monopoly of violence (Elias, 1989 [1939]). The development of a culture of non-tolerance, towards violence depends, therefore, on an effective and legitimate use of state violence to deter interpersonal violence – i.e., on an increased (legal) cost of resorting to violent behaviour.

Penal laws, punishing the use of violent behaviours in intimate and other social relationships, can be, therefore, necessary but not sufficient. Their ability to deter violent behaviours depends on how swiftly and certainly, offenders can expect (legal) punishment. Cost perception results from a complex evaluation process. In advanced societies, direct (objective) and/or indirect (subjective) knowledge and/or experience (Nagin, Solow & Lum, 2015) usually influence such process.

Reporting a crime to police can increase cost perception because only reporting allows police to initiate an investigation that will eventually lead to the prosecution and punishment of the offender. High non-reporting rates mean that offenders can reasonably expect that legal prosecution and punishment will almost certainly not occur (Xie & Lynch, 2017).

Information on prosecution rates can also influence (legal) cost perception since offenders can expect not going to trial when such rates are low (Entorf & Spengler, 2015). Sentencing and type of sentencing can also influence cost perception. An effective imprisonment sentence is, in most advanced societies, the harsher admissible legal punishment

for committing a crime but although there is not sufficient evidence that crime responds to the severity of criminal sanctions (Chalfin & McCrary, 2017; Entorf & Spengler, 2015), low sentencing rates probably decrease cost perception.

Methodology

The main objective of this research is to identify how and if the selected deterrence policy, of intimate partner violence, contributed to a drop of this type of violence.

The first research step consisted in the characterisation of the deterrence policy framework. Penal laws, applying to violent crimes and to intimate partner violence, were collected and analysed. The studied policy assumed, almost from the beginning, that asymmetric gender role, imposing effective different rights and opportunities, as well as fear of further violence, constrain women's capacity and ability to break and move away from a violent intimate relationship (García-Moreno et al., 2015). Therefore, additional and related laws, aiming at the special protection and support of mistreated women, were also collected and analysed.

This first research step revealed three major policy momentums – 1982 to 1994, 1995 to 2006, and 2007 to 2018. The first momentum starts in 1982, with the criminalisation of intimate violence inside formal marriage and the establishment, in 1991, of the first special protection and support measures and services for mistreated women. This first momentum lasts until 1994.

The second momentum starts in 1995, with the strengthening of legal punishment of intimate violence, in and outside formal marriage. This second momentum is also characterised by giving police and public prosecutors additional capabilities to intervene in intimate violence cases, namely the ability to apply preventive arrest of the offender or to prohibit further contacts with the offended, as well as by further special protection and support measures for mistreated women. This second momentum lasts until 2006.

The third momentum starts in 2007, with the criminalisation of almost all forms of power, control, and domination behaviours in intimate relationships, and increased law enforcement capabilities and special protection and support for those subjected to violence in intimate relationships. Significant alterations did not take place after 2013, meaning this third momentum is still ongoing.

The second research step consisted in the identification of how the three momentums affected reporting, prosecution and punishment rates, as well as self-reported rates of intimate partner violence against women. To calculate such rates official statistics data-

bases and victimisation surveys were used. In the calculation of prosecution rates, marginal errors may have occurred since prosecution does not always happen in the same year the crime is committed and/or officially recorded. In the calculation of punishment rates, marginal errors may also have occurred since a final court decision does not always happen in the same year reporting and/or prosecution takes place.

A third and final research step consisted of a comparative analysis of reporting, prosecution and punishment rates, as well as of self-reported prevalence, of crimes of assault and threat. Selection of these two crimes took in consideration they encompass similar intimate violence behaviours, being the difference the fact that they occur outside intimate relationships.

Results

Portugal, a European Union Member State, had, until 1974, high gender asymmetries and inequalities imposed by law (Ramos, 2004). Following the implementation of the current democratic regime, in 1974, the parliament approved a vast array of laws aiming at equalising gender rights and opportunities.

In 1976, a new Constitution (Decree of 10 April 1976) granted Portuguese women full citizenship rights (Article 12º), including the right to vote and to access and perform (almost) any profession. This new Constitution also prohibited any form of gender-based discrimination (Article 13º). Soon after, parliament repealed several laws, namely Law Decree nº47344, of 1966, which assured female unconditional obedience to fathers and/or husbands, enforced, whenever thought necessary, by legal or informal coercion.

Although there wasn´t, at the time, hard evidence on the extent of intimate partner violence, given the long history of male domination and control inside intimate relationships such violence was most probably widespread.

A deterrence policy of intimate partner violence starts with the approval of a new Penal Code and the criminalisation of intimate violence (Article 153º of Law Decree nº 400 of 1982). Intimate partner violence crime is entitled mistreatment of minors or a spouse and establishes, for violent physical and psychological violent behaviours, inside a formal marriage, a maximum of three years of imprisonment. Additionally, a maximum of four years of imprisonment is set for extremely violent assault and a maximum of nine years of imprisonment in case the offended died because of mistreatment or cruel treatment (Article 154º).

The aim is clearly to state that the then sensed widespread tolerance, towards male violence inside an intimate relationship, needed to end. For such purpose, maximum imprisonment sentences are set to be slighter higher than the ones applying for crimes committed outside marriage. Assault, outside formal marriage, is punishable by a maximum of two years of imprisonment (Article 142º) and death, resulting from assault, by a maximum of eight years (Article 145º). However, intimate relationships, outside formal marriage, are not included in the new crime and, strangely, punishment, for extremely violent assault, outside marriage, remains higher, with a maximum five years of imprisonment (Article 143º).

The short-term outcomes of this first momentum are two folded. Prosecution and punishment of offenders increase slowly but remain truly exceptional events (Table 1).

Table 1: Crime of mistreatment: Recorded events and prosecuted and punished offenders (per 100 000 inhabitants) between 1983 and 1994.

Year	Recorded events[1]	Prosecuted offenders	Punished offenders
1982	n. a.	n. a.	n. a.
1983	n. a.	n. a.	n. a.
1984	n. a.	n. a.	n. a.
1985	n. a.	n. a.	n. a.
1986	n. a.	0,4	0,1
1987	n. a.	0,3	0,2
1988	n. a.	n. a.	n. a.
1989	n. a.	n. a.	0,2
1990	n. a.	n. a.	0,2
1991	n. a.	n. a.	0,2
1992	n. a.	n. a.	0,4
1993	n. a.	n. a.	0,3
1994	n. a.	0,6	0,4

Source: Estatísticas da Justiça, Gabinete de Estudos e Planeamento do Ministério da Justiça.

No reporting, to police, of mistreatment behaviours inside formal marriage is one important cause for such disappointing outcome. The first national survey on violence against women (Lourenço et al., 1997) reveals that 20,5% of the surveyed women, aged over 17 years, experienced, in 1994, physical, psychological and/or sexual violence, inflicted

1 Reported events effectively recorded by police.

by their husband or intimate partner. It also reveals that less than one percent of them sought assistance or protection from police or judicial authorities.

Legal singularities link widespread non-reporting to prosecution and punishment exceptionality. Because of the maximum imprisonment of three years, women reporting mistreatment, not involving extremely violent assault, have to take into consideration the offender will not face preventive arrest, removal from the family household or contact prohibition. Articles 200º and 202º of Law Decree nº78 of 1987 allow such protection only when the committed crime is punishable with a maximum imprisonment sentence of five or more years. Women needing to break and safely move away from a violent husband knew they had to cope with him and with his violent behaviour until a court imposed an eventual imprisonment sentence.

To make things worse, the ability to legally prosecute and punish an intimate offender, with effective imprisonment, was severely constrained. Article 187º of Law Decree nº87, of 1987, prohibits evidence gathered, for example, by intercepting communications, for crimes not punishable with a maximum imprisonment sentence of five years or more. Article 135º, of the same Law Decree, grants the right to refuse testifying to doctors, lawyers and other professionals, bounded by a confidentiality agreement, even when they have evidence on mistreatments inside a formal marriage. Such means that prosecution and punishment, of intimate offenders, has to rely almost exclusively on the testimony of the offended that, according to Article 134º, had the right to refuse testifying against the offender on facts occurred during their marriage or cohabitation.

Most mistreated women faced heavy constraints and threats when breaking and moving away from a violent husband and in particular when starting to do so by reporting the event and later by testifying against him in court. In 1991 this is acknowledged and Law nº 61, of 1991, establishes a support framework, namely in the form of immediate counselling services, of special police units and of governmental financial compensations, which were later regulated by Law Decree nº423, of 1991. One of the results is a significant increase in prosecuting and punishment rates, as can be seen in Table 1.

In order to solve prosecution and punishment constraints, a 1995 revision of the Penal Code (Law Decree nº48 of 1995) increases punishment and initiates a second policy momentum. Article 152º strengths punishment severity of intimate mistreatment by increasing maximum imprisonment to five years, thus allowing for the preventive arrest of the offender and for additional evidence gathering methods. A maximum of eight years of imprisonment is set for extremely violent assault and a maximum of ten years of imprisonment is set in case the offended died because of mistreatment or cruel treatment. Article 152º also includes intimate partner violence, outside formal marriage, as a behaviour falling under the crime of mistreatment.

By comparison, assault, outside intimate relationships, became punishable by a maximum of three years of imprisonment (Article 143º), and threat outside intimate relationships, by a maximum of two years of imprisonment (Article 153º). However, extremely violent assault, outside intimate relationships, became punishable by a maximum of ten years of imprisonment (Article 144º), not eight as in intimate relationships. In case the offended died, because of the assault, the offender could be sentenced to a maximum of twelve years of imprisonment (Article 145º), not ten as in intimate relationships.

These odd differences leave untouched the assumption that intimate partner violence was still less serious than other forms of violence. Additionally, a formal complaint became mandatory, before initiating an investigation, possibly to avoid the already known setbacks during prosecution or trial. Law nº 65, of 1998, later amended this limitation by giving authorisation to public prosecutors to initiate an investigation, in the offended best interest, providing her or he did not oppose to it.

In order to increase protection measures, for offended deciding to report mistreatment to the police and to testify during prosecution and trial, Law nº59, of 1998, provides a new legal basis for the removal of the offender from the common household, while Law nº93, of 1999, establishes new measures for witness protection. Law nº107, of 1999, and Law Decree nº323, of 2000, establishes a public network of safe houses for mistreated women. Law nº7, of 2000, establishes an additional sentence of up to two years of no personal contact or any other form of communication between the offender and the offended. Laws nº6 and nº7, of 2001, extend the protection measures to intimate relationships outside formal marriage. Law nº31, of 2006, establishes increased support measures for persons targeted by crime in general, namely the right to adequate compensation.

Outcomes of the increased punishment severity, allowing for the use preventive arrest, removal from the household, contact prohibition and more evidence gathering methods, as well as of the increased protection and support of the offended, are encouraging (Table 2).

Reporting, measured by the events recorded by the police, increases remarkably, especially after an also remarkable increase, beginning in 2001, of prosecuted offenders. Reporting increases allow, in turn, for the prosecution and punishment of more offenders. Following these encouraging outcomes, a third, and so far last, effort to deter intimate partner violence begins in 2007.

Table 2: Crime of mistreatment: Recorded events and prosecuted and punished offenders (per 100 000 inhabitants) between 1996 and 2006.

Year	Recorded events	Prosecuted offenders	Punished offenders
1995	n. a.	0,9	0,6
1996	n. a.	1,0	0,3
1997	n. a.	1,2	0,5
1998	n. a.	1,7	0,5
1999	33,5	2,1	0,6
2000	48,5	3,1	1,3
2001	66,7	3,8	1,8
2002	79,3	5,5	2,8
2003	98,0	8,1	4,3
2004	86,1	9,4	5,1
2005	223,7	11,2	5,6
2006	295,2	11,4	5,6

Source: Justice Statistics (https://estatisticas.justica.gov.pt/sites/siej/en-us), accessed between October and December 2019.

Article 152º of Law nº59, of 2007, replaces the crime of mistreatment by the crime of domestic violence, which criminalises almost all forms of power, control, and domination in intimate relationships. The intimate relationship concept includes, for the first time, same-sex partners, and maximum punishment sentences are finally set to be no lower to those established for similar forms of violence, outside intimate relationships. Removal of the need to have a formal complaint also allows public prosecutors to initiate immediately a formal investigation, even if opposed by the offended person. Article 152º also extends contact prohibition, with the offended, to a maximum of five years, and adds prohibition to hold and carry offensive weapons for a maximum of five years and suspension of parenthood rights for a maximum of ten years.

Two years later, Law nº112, of 2009, states that domestic offenders can be arrested and kept under custody in any situation and gives urgent prosecution status to the crime of domestic violence (Articles 30º and 28º). Law nº112, amended seven times until 2017, also extensively increases protection and support for those subjected to violence in intimate relationships. Law nº104, of 2009, already regulated compensation rights to mistreated women, and Laws nº129 and nº130, of 2015, and Law nº24, of 2017, increase the protection of the offended. In 2013, Law nº19 includes violence in dating relationships in the crime of domestic violence and concludes the criminalisation of all possible violent behaviours in intimate relationships.

The outcomes are apparently positive ones. Recorded events start to decline in 2010, and rates of prosecuted and of punished offenders reach a maximum in 2016 (Table 3).

Table 3: Intimate relationship crimes: Recorded events and prosecuted and punished offenders (per 100 000 inhabitants) between 2007 and 2018.

Year	Recorded events	Prosecuted offenders	Punished offenders
2007	325,4	16,6	8,1
2008	237,8	20,3	9,5
2009	264,4	25,6	12,3
2010	290,7	37,5	17,9
2011	278,3	37,3	18,3
2012	258,9	35,2	17,8
2013	266,0	35,9	18,7
2014	268,0	30,2	16,5
2015	263,2	35,1	18,8
2016	268,1	38,4	19,9
2017	266,1	36,0	19,2
2018	264,7	34,0	18,3

Source: Justice Statistics (https://estatisticas.justica.gov.pt/sites/siej/en-us), accessed between October and December 2019.

Results of a European-wide survey on violence against women, carried out in 2015, show, however, a problem. The survey finds that near one in four, of the surveyed Portuguese women, aged 18 to 74 years, experienced physical, psychological and/or sexual violence by their intimate partner in the twelve months before the interview (Violence against women: an EU Wide survey, 2015). This prevalence is higher than the one found by a similar national survey, carried out thirty years before (Lourenço et al., 1997). Additionally, intimate partner violence events, recorded by police, are, in 2014, impressively lower, when compared to self-reported prevalence, than recorded assault and threat events (Table 4).

To what extent the increase, in self-reported subjection to intimate partner violence, derives from a higher sensitivity, and intolerance, towards all forms of intimate violence, against women, is not possible to ascertain. The only thing certain is that intimate violence still terrorised, in 2014, the lives of too many Portuguese women.

Table 4: Self-reported subjection to violent crime (per 100 inhabitants over 18 years).

	1994	2005	2014
Intimate violence (women)			
Self-reported prevalence	20,5	*n. a.*	24,2
Events recorded by police	*n. a.*	0,5	0,6
Assault			
Self-reported prevalence	0,8	0,7	*n. a.*
Events recorded by police	0,4	0,5	0,3
Threat			
Self-reported prevalence	0,9	0,7	*n. a.*
Events recorded by police	0,1	0,2	0,2

Sources: Almeida & Alão (1995); van Dijk et al. (2006); Violence against women: an EU Wide survey (2015).

Low reporting, and consequent low prosecution and punishment rates, can be one of the explanations for the failure to reduce the prevalence of intimate partner violence, against Portuguese women. Prosecution and punishment rates, of offenders having an intimate relationship with the offended, remained below the reporting, prosecution and punishment rates of offenders having no intimate relationship with the offended. The gap narrowed in 2018 but available data (Table 5) shows that violent offenders, having no intimate relationship with the offended, expect a much higher probability of reporting and facing prosecution and punishment than those having an intimate relationship with the offended person.

Table 5: Violent crimes: Prosecuted and punished offenders (in % of recorded events).

	2003	2008	2013	2018
Intimate violence				
Prosecuted	8,3	8,5	13,5	12,8
Punished	4,4	4,0	7,0	6,9
Assault				
Prosecuted	31,4	59,3	57,2	39,1
Punished	10,7	18,3	20,4	14,8
Threat				
Prosecuted	14,9	21,4	20,7	15,5
Punished	4,6	6,2	9,2	8,2

Source: Justice Statistics (https://estatisticas.justica.gov.pt/sites/siej/en-us), accessed between October and December 2019.

Discussion and conclusion

Deterrence of intimate partner violence followed, in Portugal, the theoretical assumption that certain, swift and severe punishment increases (legal) cost perceptions and an externally induced self-control, which, in turn, would contribute to a drop in the prevalence of intimate partner violence. Taking into consideration a long national history of gender inequality and of women subjugation to male power, control and domination, extensive protection and support measures for breaking and moving away from violent intimate partners, complemented the deterrence policy.

One outcome was a remarkable increase in the prosecution and punishment of offenders. The other was an apparent failure to reduce the prevalence of intimate partner violence against women.

Evidence, supporting that reporting, prosecution and punishment rates have an effect on cost perceptions and on an externally-induced self-control, and, in turn, in the prevalence trend of (violent) crime is still not conclusive (Entorf & Spengler, 2015; Xie & Lynch, 2017; Chalfin & McCrary, 2017). Evidence, gathered and analysed in this research, is not enough to conclude that an extremely low reporting rate, of intimate violence events, assuring most offenders low prosecution and punishment probabilities, explain why intimate partner violence prevalence, against Portuguese women, remains high. Nevertheless, results suggest the existence of a probable link that needs to be addressed and probably broken.

In a context where women can already rely on an extensive support framework, in case they decide to break away from a violent intimate relation, it seems that some law enforcement practices are preventing a more significant drop of intimate partner violence.

Women will not increase reporting to police if they keep sensing a threat to their personal safety and if fear of further violence remains high. They will also not risk being the only evidence supporting prosecution and punishment because of the fear of endless further violence. This, in turn, assures offenders they still face a low or at least a bearable cost.

Other researches, on intimate partner violence in Portugal, already pointed out this bottleneck. Reporting to police remains a dangerous move for an offended woman. Evidence gathering is, in most cases, limited to the offended testimony and, in such cases, non-persecution is frequent. When a single and unique event is at stake, non-prosecution is also frequent. The same tends to happen to preventive arrest of the offender, especially when non-extremely violent events are at stake. Lack of multiple and crossed evidence is usually the main reason for the acquaintance of an offender. Finally, most

non-extremely violent offenders only face a suspended imprisonment sentence, if not a simple fine (Gomes et al., 2016).

Research findings suggest that investment in the investigation and prosecution of intimate partner violence, as a crime with the same and, frequently higher, cost, for those who are offended, as the one of any other violent crime, remains comparatively low in the Portuguese law enforcement system. Cutting the link between offended fears, and effective risk, of further violence, after breaking and moving away from a violent intimate relationship, and offenders' perceptions that violent behaviour, in an intimate relationship, still faces a low legal cost, appears to be needed as one of the main drives of a fourth policy momentum.

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PROJECT REPORTS

EUROPEAN LEGISLATION TO FIGHT DOMESTIC VIOLENCE: VARIANCE WITHIN TRANSLATIONS OF INTERNATIONAL POLICY TO NATIONAL LEVEL

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Abstract
The implementation of international policies relating to domestic violence on national level is mostly discussed under the binary of compliance and non-compliance. Drawing on research employing the method of comparative policy analysis conducted by the IMPRODOVA [1] project, the article argues that much is to be gained by analysing variance within compliant translations of international policy to national levels. Three examples for such variance are discussed, in a cross-national and cross-sectoral comparative policy analysis, in relation to the translations of the "Istanbul Convention" in a number of EU-States. In doing so, examples for the advantages of this analytical approach adopted by IMPRODOVA can be shown along the preliminary findings on the topics of (1) definitions and conceptions of Domestic Violence, (2) organisation of frontline responder services and cooperation, and (3) risk assessment tools and methodologies in the area of national policy analysis.

Key Words: *definitions of domestic violence, Istanbul Convention, policy implementation, comparative analysis, risk-assessment, European policy*

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Introduction

Any serious discussion of policies to fight domestic violence necessarily encompasses European and international policies and standards, legislature and policy on national level, and the relationship between the two. However, these discussions frequently focus on, or are limited to, a binary of compliance and non-compliance. The preliminary findings of research conducted within the IMPRODOVA project[2], make evident that an equally relevant, and often more productive approach, may be transcending this binary. Significant insights for the advancement of the European response to domestic violence lie in the analysis of *variance within compliant translations of international policy to national level*.

Following a selection of the most relevant international policies to have emerged since the 1990s within the United Nations, Council of Europe and European Union relating to domestic violence, the article will focus on what may arguably be the most important in this topic: The 2011 *Convention on preventing and combating violence against women and domestic violence* (*Istanbul Convention*). Drawing on the comparative policy analysis conducted jointly by all members of the IMPRODOVA project, and relating these results to specific sections of the Convention, the article will provide three examples in which an analysis of variance within compliant translations of international policy to national level provides unique and valuable insights.

First, a discussion of fundamental variance in legislative approach, such as the inclusion or exclusion of domestic violence as an autonomous crime in the penal code, will show that these differences do not necessarily indicate a diminished efficacy of specific national responses. At the same time, an analysis of such *variance within translations* will provide insights into the possible unintended consequences of these different approaches.

Secondly, differences in national definitions of domestic violence, focused in particular on gendered and non-gendered definitions, will show how variance in national implementation may sometimes be reminiscent of debates that shaped the very phrasing and orientation of documents such as the *Istanbul Convention*.

Finally, variance in methods of distinguishing between domestic violence and high-risk domestic violence, is not solely based on different approaches in implementing international policy in particular, but is indicative of fundamental challenges[3] (and prevailing problems[4] of assessing risk in general.

2 www.improdova.eu [accessed 16th September 2019]

3 Such as definition of target function, perpetrator or victim focused assessments, situation or process-oriented assessments, danger or vulnerability assessment, sensitivity/validity of the risk assessment tools employed.

4 Such as the organizational context of risk assessment like their length, time available, or resources needed.

The *Istanbul Convention* and other relevant domestic violence-related International Policies

The 1990s saw what was arguably the first major surge of international policy frameworks and documents addressing *violence against women* in general, and *domestic violence* in particular. On the shoulders of earlier initiatives and institutions such as the United Nations *Convention on the Elimination of Discrimination against Women* (CEDAW) adopted in 1979; the United Nations, Council of Europe, and European Union began drafting documents intended to provide guidance and legal grounds for the national responses to domestic violence. While the CEDAW did not yet include references to violence against women, focusing instead on the legally binding imperative to ensure equal rights between the sexes, its acknowledgement of the structural inequality experienced by women formed the entry point for ground-breaking resolutions relating specifically to the topic of violence. The first of these adopted by the United Nations General Assembly, the *Declaration on the Elimination of Violence against Women* (Resolution 48/104), saw its ratification in 1993. Others followed, such as the 1995 *Beijing Declaration* and *Platform for Action*, which included the objective to end all forms of violence towards women as well as practical measures to be taken by states, international organizations and NGOs. In 2015, countering violence against women was included among the *Sustainable Development Goals*. Frequently relating to these UN resolutions, the *Council of Europe*, as well as the *European Union,* adopted a number of instruments to combat this form of violence. Pertinent examples are: the *Council of Europe* recommendation REC(2002)5 on the *Protection of Women Against Violence*, the 2005 convention addressing human trafficking[5], and the *Istanbul Convention* on *Preventing and Combatting Violence against Women and Domestic Violence*. Similarly, *Directive 2004/81/EC* and *Directive 2011/36/EU* specifically targeted violence against women in the context of human trafficking, while the *Victims' Directive*[6] of 2012 provided minimum standards on the rights, support and protection of victims in general.

The European Victim's Directive 2012

The European Victims Directive (2012/29/EU) outlines frameworks specific to the implementation of national strategies to combat violence against women and domestic violence. IMPRODOVA's focus on the protection of victims of domestic violence lies inter alia: on the implementation of Victim's support services (Art. 8 and 9), on training of practitioners (Art. 25), and cooperation and coordination of services (Art. 26). As a large section of the articles of the *European Victims Directive* relate strongly to the *Istanbul Convention*, the discussions in following sections will relate only to translations of the latter in an effort to reduce complexity.

5 Council of Europe Convention of on Action against Trafficking in Human Beings (2005); Directive 2011/36/EU on preventing and combating trafficking in human beings

6 Directive 2012/29/EU

Istanbul Convention

While numerous international policy documents (only a selection of which have been outlined above) relate to the topic of domestic violence, the ratification of the *Convention on Preventing and Combating Violence against Women and Domestic Violence* in 2011, represents perhaps the most important attempt to institute a comprehensive policy framework in this field. The "*Istanbul Convention*" includes the first legally binding, international and wide-reaching set of norms to combat violence against women in general, and domestic violence specifically. Across twelve chapters and eighty-one articles, the Convention entails several detailed measures in the areas of policy, prevention, provision, protection and prosecution, as well as comprehensive definitions for each of these forms of violence.

Violence against women "is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (Art. 3 Sec. a). This definition makes it possible to address both physical and psychological violence, as well as forced marriages, genital mutilation, forced sterilizations, rape, and sexual harassment. Article 2 further encourages the application of the Convention to victims of domestic violence (Art. 2 Sec. 2), which is defined as "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim" (Art. 3 Sec. B). While the application of the Convention to all forms of violence against women (Art. 2 Sec. 1) both in times of peace and in situations of armed conflict (Art. 2 Sec. 3) are legally binding, the inclusion of domestic violence within its scope remains a recommendation. The peculiarity of this differentiation shall be addressed in a later section.

Among numerous detailed measures to combat violence against women, the *Istanbul Convention* includes norms on risk assessment and risk management, outlining the imperative to "take necessary legislative or other measures" (Art. 51 Sec. 1) to ensure that relevant authorities evaluate the risk of lethality, seriousness of situation as well as the risk of repeated violence. Chapter IV includes articles outlining the imperative to provide specialized support for victims such as the proper provision of information (Art. 19), assistance in individual/collective complaints (Art. 21), specialist support services (Art. 22), shelters (Art. 23), as well as support and encouragement for reporting (Art. 27). Further chapters extend the purview of the convention for example to areas of *migration and asylum* (Chapter VII), *international cooperation* (Chapter VIII), *prevention* (Chapter III) and *substantive law* (Chapter V).

Three Areas of Variance within Translations of International Policies to National Level

By October 2020, thirty-four countries have ratified the *Istanbul Convention*, with twelve further countries whose signature was not yet followed by ratification.[7] Of the countries participating in the IMPRODOVA project, Austria, Finland, France, Germany, Portugal, Slovenia, and the United Kingdom have all ratified the Convention, with Hungry remaining the only signatory pending ratification. Against this background of a joint commitment to implement the policies outlined by the Convention, the research conducted by the IMPRODOVA project includes an interrogation of national policies to respond to domestic violence. Beyond the identification of gaps within the compliance by individual Member States, our research has revealed what is better described as variance within attempts to translate international policies to national level. We analysed policy documents on national level and organisational level for three frontline responder sectors in eight Member States. Data collection commenced with National Action Plans on Combatting Domestic Violence/Violence against Women (required by the Istanbul Convention) in eight Member States, and was expanded to intra-organisational guidance, and provisions of case management, including case documentation and risk assessment tools for three frontline responder sectors (law enforcement, medical, and social sector). The cross-national and cross-sectoral comparative document and practice analysis focussed on the topics of (1) definitions and conceptions of Domestic Violence, (2) organisation of frontline responder services and cooperation, and (3) risk assessment tools and methodologies.

In the following section, three areas in which such variance is evident will be outlined in order to show the practical outcomes of attempted transmissions of international guidance and policy to national level. As will be shown, such variance is a necessary result of the differences in legal and organizational frameworks on national level.

Domestic Violence in the Penal Code

The primary moment of national compliance to international frameworks is often that of adoption and implementation within national legislature. Article 7 of the *Istanbul Convention* stipulates such legislative steps as well as "other measures" (Art. 7 Sec. 1) resulting in "comprehensive and coordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of [the] Convention and offer a holistic response to violence against women." (Ibid) Relating to domestic violence, variance within translation of this Article can be made particularly evident when referring to a very fundamental difference in national approaches: legislating domestic violence as a criminal offence in itself within the Penal Code, or by some other legislative means, such as defining offences within close relationships as subject to public prosecution. This

7 Council of Europe, status as of 20-8-2018.

example gains further pertinence in the context of the fact that the application of the Convention to the field of domestic violence remains a recommendation and is therefore not legally binding. Thus, a discussion of variance between national translations firmly avoids the binary of compliance and non-compliance.

Within the sample of countries participating in the IMPRODOVA project, fundamentally different approaches are evident. One the one side, domestic violence has been enacted as a criminal offence in the Portuguese Penal Code since 2007 (PPC; Law N° 59/2007, 4 September). The same has applied for Slovenia under the term *Family Violence* since 2008 (Article 191, PC-1, OG RS, N° 55/08 and 66/08), and most recently for Scotland, which has made *Domestic Abuse* a specific criminal offence in 2018[8]. Austria, France, Germany and Finland on the other hand, do not include domestic violence in their Penal Codes.

Table 1: Domestic Violence Provisions in Penal Code

Country	Concept	Criminal Code provision	Year of inclusion
Portugal	Domestic Violence	PPC; Law N° 59/2007, 4 September	2007
Slovenia	Family Violence	Article 191, PC-1, OG RS, N° 55/08 and 66/08	2008
Scotland	Domestic Abuse	Domestic Abuse Act 2018	2018

Prosecution instead follows the myriad criminal acts possibly committed when an act of domestic violence occurs. These frequently include bodily injuries, insult, intimidation, libel or slander.

Five of the countries participating in the IMPRODOVA-project[9] have adopted the strategy of improving the response to domestic violence without including it as a type of crime in the Penal Code, by implementing policies such as Germany's *Protection against Violence Act* (Gewaltschutzgesetz), Austria's equivalent of the same, or its *Police Security Act* (Sicherheitspolizeigesetz). Austria has further adopted the approach of making relevant criminal acts committed in the context of domestic violence *ex-officio crimes*, improving the ability for law enforcement to respond to such acts of violence, and ensuring that "prosecution of offences established [in the Convention] shall not be wholly dependent upon a report or complaint filed by a victim [. . .]" (*Istanbul Convention*, Art. 55 Sec. 1). The *Police Security Act* also formalizes the cooperation between law enforcement and the social sector, as every incident in which a restraining order was issued must be communicated to a social sector organization to improve victims' support (relevant also in relation to Article 9).

8 https://www.gov.scot/news/domestic-abuse-act-in-force/ [accessed: 20th August 2019]

9 Austria, France, Germany, Finland, and Hungary.

Highlighting these differences in national legal frameworks reveals that, while enacting domestic violence a specific criminal offence may appear to be the most compliant approach for national translation, it is not an exclusionary prerequisite for organising an effective national response. On the one hand, including domestic violence a separate, criminal offence seems to enhance clarity, increase visibility, and help to recognise the phenomenon. On the other hand, however, the implementation of Domestic Violence as an ex-officio crime can also widen the area of discretion exerted by police officers. On the one hand, including domestic violence a separate, criminal offence seems to enhance clarity, increase visibility, and help to recognise the phenomenon. On the other hand, however, the implementation of Domestic Violence as an ex-officio crime can also widen the area of discretion exerted by police officers. Through a broadening of phenomena, beyond material evidence, included into the definition of "Domestic Abuse" in Scotland, frontline responders can to take into account less manifest factors which allows for discretionary inclusion[10]. The exclusion of domestic violence from the Penal Code represents at least a symbolic difference with several practical consequences. Not differentiating between acts of violence committed between intimate partners and violence occurring between strangers may diminish a legal and social awareness for the phenomenon of domestic violence and its complexity. At the very least, a lack of differentiation between such acts seriously diminishes the statistical record of domestic violence, which may in turn have negative consequences for the level of funding or attention in general it receives. Though not an exclusionary condition, an empirical awareness of the prevalence of domestic violence on national and international levels is often instrumental in the allocation of adequate funding and the urgency of responses on policy level. Ideally, such statistical records would be refined to avoid the repetition of previous misconceptions (such as those of gender-symmetry) discussed in the context of existing surveying approaches (Myhill, 2017).

Differences in the Conception and Definitions of Domestic Violence

An insight into a second area of variance within translation of European policy frameworks, present in the preliminary findings of the IMPRODOVA-project, lies within the differences in national conceptions and definitions of domestic violence. Particularly the difference between gendered and gender-neutral definitions exemplifies such variance well.

Policies in the majority of countries employ gender-neutral definitions. Portugal, for example, summarized their policy definition of domestic violence as any incident, or pattern of incidents, involving controlling, coercive, threatening behaviour, violence or abuse between those who are – or have been – intimate partners of family members regardless of gender, age or sexuality. Germany and Austria, which do not include domestic vio-

10 For a discussion on police discretion see Mayhill & Johnson (2016).

lence in their Penal Codes, necessarily rely on criminal offences for the prosecution of such violence that are not specific to any gender. Some countries, such as Finland, mirror the approach taken by the Convention itself: While its Penal Code predominantly employs gender-neutral language, Finland's *National Action Plan* explicitly encourages the focus on women and girls as victims of gender-based violence. This recommendation, similar to the approach in Article 2 of *the Istanbul Convention*, is subsequently expanded by a clause, stating that this policy should also be applied to men and boys who have become victims of domestic violence. The same holds true of Finland's Government Bill (78/2010), subjecting petty assaults in the context of close relationships to public prosecution. This bill at once highlights the higher victimisation rate of women, while maintaining the gender-neutrality of the definitions of victims and perpetrators in the penal code to accommodate violence in same sex relationships or the victimisation of men. In contrast, Hungary defines domestic violence as an act that is regularly committed, mostly against women and children. Focusing on these victims' emotional and financial powerlessness and acknowledging their higher rate of victimization, this definition remains open to the inclusion of other victims of such violence. Finally, Scotland employs a decidedly gendered definition of domestic abuse in its national strategy, based on *the United Nations Declaration on the Elimination of Violence against Women* (1993). Underlying this gendered definition is the recognition of the specific relationship between domestic abuse and gender inequality as its cause and consequence (Burman & Brooks-Hay, 2018). Simultaneously, the definition employed by Scottish Police amends the understanding of domestic violence to include male victims of female perpetrators as well as the abuse of lesbian, gay, bisexual, transgender and intersex (LGBTI+) persons. Arguably, the Scottish approach mirrors the one employed by the *Istanbul Convention*, Finland, and Hungary. The central difference is, that the latter cases combine within one piece of policy, the recognition of gender-asymmetry in domestic violence with the possibility of extending the responses to other victim-perpetrator constellations. In the case of Scotland, this same combination is achieved by adopting a gender-sensitive definition on national, and a gender-neutral definition on law enforcement levels.

In outlining this variance in the translation of international policies to the national level, it becomes evident that different approaches not only comply with the *Istanbul Convention*, but that the variation in itself mirrors a debate underlying the very phrasing of this document. Article 2 Section 1 states that the *Istanbul Convention* "shall apply to all forms of violence against women, including domestic violence, which affects women disproportionately." The following section 3 *encourages* parties "to apply this Convention to all victims of domestic violence. Parties shall pay particular attention to women victims of gender-based violence in implementing the provisions of this convention."

This formulation followed a fundamental debate on whether the Convention should adopt a gender-neutral definition of domestic violence, guaranteeing the inclusion of vi-

olence experienced by victims regardless of their gender. The competing position to focus the *Istanbul Convention* more narrowly on violence against women, was based on the argument that such violence is always grounded in the specific role women are assigned within gender relations in society as a whole. (Burman & Brooks-Hay, 2018; Logar, 2014). A gender-neutral formulation would obstruct responses aimed at this core of the problem, as the gender-relations underlying violence against women would be obscured. In part due to efforts on the side of the host-country, Turkey, a consensus was reached to include the gender-neutral category of domestic violence, while simultaneously augmenting the category with a reference to the fact that women are disproportionately affected by the same (Logar, 2014).

In referencing this debate between the authors of the Convention, the goal is to draw attention to the fact that variance in national translation is seldom the sole result of differences in the form or context of implementation. Comparing policies on the national level reveals variance in the conceptions and definitions of domestic violence, which predate the ratification of the Convention. Rather, these national variations mirror different positions in the fundamental debate on how to best comprehend, define and respond to domestic violence and violence against women as such.

A focus on the variance within translation of international policies in this case, directs analytical attention to debates underlying the policies themselves, allowing new challenges to become visible. Rather than understanding differences in national policy approaches as merely bound to legislative contexts, strategic and symbolic dimensions and their effects begin to appear. Gendered definitions may enforce specific discourses on female victimisation. While this may lead to an increased sensibility for victims of domestic violence in the context of broader gender relations, it may also give rise to counter-movements of women who reject the label of victim and its associated subjugation (Young, 2003) or men who reject the label of sole violent perpetrators, sometimes in reactionary ways.[11] The same holds true for the unintended possible exclusion of other persons facing structural marginalisation such as the LGBTI+ Communities. On the other hand, it is highly questionable to deny the structural gender-relations at the core of domestic violence, and the lack of legislative acknowledgment of this fact seriously diminishes the ability to respond to these.

This analytical perspective may also be fruitful when applied on a sectoral rather than national level of comparison. The differences in the specific roles of law enforcement and social sector organisations for example, are strongly tied to the underlying logic of their individual responses. The Scottish case mentioned above, illustrates this point nicely. The fact that law enforcement employs a gender-neutral definition of domestic violence,

11 On Victimization of Women see also Meloy & Miller (2010).

while many social sector organisations are able to relate more closely to the gendered understanding of the phenomenon present in national policy, may point towards the positions available to these individual sectors within the debate. While law enforcement agencies are confronted with a multiplicity of consequences of structural inequalities in their daily work, their interventions into the gender-relations in society as a whole are limited within the prism of criminal (procedural) law. The position within the outlined debate available to law enforcement as an institution is most frequently that of gender-neutrality: police interventions are centred on gender-neutral categories of victims, suspects, the accused and so on. The specific functions of different social sector organisations on the other hand, may make gendered definitions of domestic violence more readily available to these. The existence of women's shelters for example reveals the gendered nature of the problem. Applying this analytical perspective to uncover differences in underlying logics of sectors may provide insight into topics such as challenges in cooperation between different organisations.

Differentiating High-Risk from non-High-Risk Domestic Violence

A final area in which *variance* became evident between the countries included in the IMPRODOVA study, relates to the implementation of Article 51 of the *Istanbul Convention*[12]. Article 51, Section 1 formulates the imperative to "take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide coordinated safety and support."

Unlike the previous examples however, attempted translation is not clearly visible on policy level in any country participating in the IMPRODOVA project. Nonetheless, such undertakings appear when reviewing policies and frameworks of law enforcement agencies, medical and social sectors of each country. Only on this organizational level, does the distinction between domestic violence and high-risk domestic violence, for example, appear. Therefore, while not implemented on the national policy level, this distinction is embedded on an organizational level for frontline responders. The definition of the risk level often forms the basis for the actions and resources of frontline responders.

A pertinent example for this may be the implementation of Multi Agency Risk Assessment Conferences (MARAC)[13] in Scotland. Similarly, while the definition of high impact domestic violence is not part of the Austrian National Action Plan, the Ministry of Internal Affairs internally define some indicators for high-risk situations (e.g. drug or alcohol abuse, weapons possession) to draw a line between serious and less serious forms of domestic violence. No differentiation between high impact and non-high impact domestic vio-

12 Art. 51 – Risk assessment and risk management

13 A good general introduction to *Multi-Agency Risk Assessment Conferences* (MARAC) can be found at *www.safelives.org.uk*

lence is made in the Finish, Hungarian, German or French Penal Codes, nor within the definition of domestic violence in Portugal.

As a result, high-risk domestic violence may not be defined in policy documents in most of the European countries, but the gravity of specific crimes (weapons position, gravity of injury, etc.) differentiates in some way between situations of higher and lower risk. To assess the level of risk of a situation, specific risk assessment tools are used by frontline responders, which (partly) influence their further action, internal organization and responsibility. Moreover, resources are frequently allocated according to the level of situational risk. As an example, in Austria the emergency restraining order, issued by a Police Officer on site, is based on the perceived severity (such as intensity, frequency, and repetition of (physical) violence) and on the possibility of further violence towards the victim.[14] This may also cause the effect of lower attention on "non-high-risk" situations and should be therefore considered with caution.

As such, *variance in translation* does not take place on national policy level, but on the level of actors and agencies in EU states. Preliminary findings of the IMPRODOVA project further indicate that particularly the topic of risk assessments is frequently accompanied with major challenges in implementation and incompatibilities between participating actors. While one interpretation of this fact may lead to the conclusion that a cause for these difficulties may be the specific lack of unification and standardization through national and international policies, an analysis of the variance within attempted translation reveals additional possible interpretations. One such alternative interpretation arises when considering the *similarity* of challenges faced in the implementation of risk assessments (such as challenges in the compatibility of different risk-assessment approaches, cooperation between agencies conducting these, as well as prognostic reliability of such tools), while noting the *dissimilarities* of national contexts these implementations take place in (these similar challenges occurring in very different legal, organisational or geographic contexts). This may point to the possible necessity of questioning risk assessments themselves as a cause for challenges of application or cooperation between agencies, rather than the forms of their attempted implementation. The same holds true for differences in contexts within a single nation. Risk assessments conducted by police officers in Austria for example, seem to face similar challenges whether conducted at the scene of the act of violence or upon return to the station, in rural or urban contexts, using more simple or elaborate methodologies. The challenge of any risk assessment is to balance capturing the complexity of an abusive relationship and its timely conclusion as well as predicting the likelihood of future offences. Questioning the "underlying rational and associated

14 The degree of severity can be assessed according to the following criteria: current and past behavior of the suspect, damaged property, torn clothing, alcohol or other substance abuse, previous calls to emergency centers, physical injuries and bruises, reluctancy of victim to talk about the incident, depression and anxiety (IMPRODOVA Training Platform, 2020).

goals of risk assessment in the police context" (Ariza, Robinson & Myhill., 2016) may prove to be the necessary condition for more successful implementation or the development of entirely new tools. As such, it may raise fundamental questions concerning the logic of preventative approaches and the difference between such interventions when applied in a punitive context or to empower the potentially victimized (Cremer-Schäfer, 2016).

Conclusion: Variance as a possible source of innovation

Significant variance exists in national attempts and approaches to implementing international policy relating to domestic violence. This variance often stems from different approaches in the response to domestic violence, which partly mirrors debates taking place within international policies. Beyond identifying gaps in implementation, an analysis of different forms of translation yields valuable insights into variance caused by specific national contexts, fundamental differences in strategies to counter domestic violence, or institutional arrangements and measures employed within them. This analytical approach also has the potential to reveal *innovation* within the variance in national approaches. The IMPRODOVA project has the objective to identify possible best-practice cases from the outset. While some such cases, for example the *Multi-Agency Risk Assessment Conferences* in Scotland, were easy to identify as promising, a number of national practices only emerged as innovative when the comparative analysis revealed their unique benefits. As the IMPRODOVA project continues, elements of *variance in translations of international policy to national level* will be further investigated. Following evaluations and practitioner validation, new practices may emerge as previously overlooked approaches to be shared in an attempt to improve the international response to domestic violence.

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WHY THE INTEGRATION OF SEX AND GENDER ASPECTS WILL IMPROVE DOMESTIC VIOLENCE RISK ASSESSMENT

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Abstract
A wide range of standardised risk assessment tools for high impact domestic violence has been developed, but their usage varies across European countries and between different frontline responders. While general risk assessment aspects are covered by most, the coverage of specific sex and gender aspects is still lacking. This article discusses, based on the results of the IMPRODOVA project[1], why sex and gender aspects need to be integrated in risk assessment tools and presents recommendations about initial approaches.

Keywords: *risk assessment, gender, sex, domestic violence, intimate partner violence*

The usage of risk assessment tools in the sphere of domestic violence

In cases of domestic violence, frontline responders (e.g., police, medical profession, social work, NGOs) are often confronted with the challenge to assess the risk and likelihood of further incidents and to respond to the determined risks adequately and effectively

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as victims need to be prevented from extreme violent or fatal (re-) offences. This is also required by the Istanbul Convention (Council of Europe, 2011; Chapter VI, Article 51). To do so, many standardised risk assessment tools have been designed (Bürger, 2014) and are used by different frontline responders. Among the best known tools are the Danger Assessment (Campbell et al., 2009), the Domestic Violence Screening Inventory (Williams & Houghton, 2004), the Domestic Violence Risk Appraisal Guide (DVRAG; Hilton et al., 2008), the DV-MOSAIC (Becker, 2010), the Dynamisches Risiko-Analyse-System (DyRiAS-Intimpartner; Hoffmann & Glaz-Ocik, 2012), the Spousal Assault Risk Assessment (SARA; Kropp et al., 1995) and the Ontario Domestic Assault Risk Assessment (ODARA; Hilton et al., 2010). These tools build on empirically derived risk factors of domestic violence victims' re-victimisation. They provide systematic checklists of items or indicators related to these risk factors. The risk is calculated by adding up the number of these items.

Sex and gender aspects in domestic violence

In general, the "sex" of a person is associated with biological facts such as e.g. chromosomes, sexual hormones, immune system or metabolism, while "gender" refers to the social norms and expectations of behaviour and appearance of individuals in social contexts. For instance, men and women are expected to behave according to socially differentiated gender roles and norms, which concern for instance bodily movements and postures, physical appearance, speech, clothes, hobbies and lifestyles (e.g. Diamond, 2002; Eckert, 1990; Oliffe & Greaves, 2012). Even though males and females are anatomically, and physically different, biological factors interact with gender factors: e.g., hormone levels can be influenced by stress with an increase in stress related symptoms particularly in women (DeSotoet al., 2007; Kindler-Röhrborn & Pfleiderer, 2012).

When talking about risk assessment tools in cases of domestic violence, sex and gender aspects should be discussed as well, since women are the group for whom risk assessment is most frequently used.

The rate of domestic violence differs significantly between sexes with females clearly outnumbering males (UNODC, 2019a; UNODC, 2019b). 22 % of women in the European Union have experienced physical or sexual violence in an intimate relationship since the age of 15 (FRA, 2014) and about 43% of women have experienced psychological violence in an intimate partnership (FRA, 2014). Moreover, almost 50 % of all homicides against women take place in the domestic sphere (Weil et al., 2018). As high impact domestic violence can lead to psychosocial and mental health problems, women have also a higher risk for mental health problems due to domestic violence (Waal et al., 2017). Female victims of domestic violence are more likely to stay in abusive relationships than men or do not

report domestic violence to the police, since women often feel ashamed by victimisation and want to protect the family reputation or honour (Howarth & Robinson, 2016).

But one should keep in mind that males can also be victims of domestic violence (Drijber et al., 2013; Dutton & White, 2013; Hines & Douglas, 2009). The number of male victims of domestic violence is underrated; in line with this, gaps in service provision exist in cases when men are victims (Barber, 2008; Drijber et al., 2013). There is a lack of representative data regarding the prevalence of domestic violence against men. Risk assessment procedures need to be tailored to the needs of male victims as well.

The question we wanted to address in this paper is to what extent sex and gender aspects, which are inextricably linked to the topic domestic violence, are already addressed in risk assessment procedures that are currently in use.

The IMPRODOVA Project and its methodology

The IMPRODOVA project[2] is a multidisciplinary research project with partners from eight European Countries that was funded by the European Union and started in May 2018 with a duration of 36 months. In this project, researchers work together with practitioners from different fields aiming to mitigate domestic violence.

Standards are promoted (e.g. Istanbul Convention; Council of Europe, 2011) on how to address domestic violence whilst only little research is done on how good these standards are integrated in frontline responders' everyday practice including risk assessment procedures. IMPRODOVA therefore used a three-tiered approach addressing this gap: As a first step, existent national and international guidelines, risk assessment tools, training formats and further information were gathered in the different IMPRODOVA countries by robust desk research as an orientation to identify the present regulatory frameworks that shape the response to domestic violence. Secondly, 296 standardised interviews with frontline responders from the police, the medical profession and social services were conducted in the eight IMPRODOVA countries Germany, Austria, Hungary, France, Finland, Scotland, Slovenia and Portugal, examining the extent to which standards are converted into practice regarding different aspects including risk assessment tools and integrated sex/gender aspects. It was decided that two locations per respective country should be examined in addition to a good practice location and interview themes were agreed. This enabled us to identify the average compliance of frontline responders' practices with international norms and allowed an efficient comparison of the implementation of international norms. As a final step, we will develop new, implementable solutions

2 www.improdova.eu

for practitioners and policy makers meeting the needs on the ground. See Vogt (2020; in press) for further information about IMPRODOVA.

Results

Our IMPRODOVA research results regarding the risk assessment tools indicated that even though risk assessment tools are partly used in most of our partner countries by various frontline responders, the tools and their usage vary between countries and frontline responders. In many cases, risk is also assessed by non-standardised procedures and often based on "gut feeling".

Based on the data we managed to collect in IMPRODOVA project, the coverage of sex/gender aspects varies in different risk assessments protocols and tools used by the police in countries participating in the project.

Risk assessment tools and processes used by medical professionals in IMPRODOVA countries vary broadly and we are not aware of any risk assessment tool in use that covers sex/gender aspects satisfactorily. Physicians focus on the injuries and if they assess the risks of future victimisation, they do not tend to use formal tools of risk assessment. However, they use standardised tools to document injuries and the cause of these. In some countries, domestic violence is specifically regarded as intimate partner violence with a focus on female victims and male perpetrators. Yet, gender is not integrated in risk assessment tools even in these countries.

In almost all IMPRODOVA partner countries, sex/gender aspects are not explicitly covered by risk assessment conducted by NGOs either. The only exception is Austria, where the Danger Assessment (Campbell et al., 2009) is used by the Vienna Intervention Centre against violence in families (IST). This instrument covers gender aspects by having both sexes for victims in their checklist. Nevertheless, the questions exclusively adopt the masculine form of the perpetrator.

Based on the information we got in the interviews conducted about how risk is assessed in general, it is important that, whether a standardised risk assessment tool is used or whether the risk assessment is based on "gut feeling", two important issues were mentioned:

Firstly, frontline responders can base risk assessment on information provided by the victim, derived directly from the situation, or searched for later utilising various databases and information systems of frontline responders, but they have to actively look for them. Therefore, frontline responders who assess risks of domestic violence need to keep in

mind that they are not necessarily fully aware of some important information that may be hidden and are not visible at first sight.

Secondly, the search and the interpretation of information might be biased by frontline responders' culturally and professionally bounded reference frames, different moral considerations and other human factors because the information must always be interpreted in a wider context. Thus, the same indicators can be interpreted in a different way when assessed from different professional perspectives. It is thus important to be aware that one's own professional perspective and background may influence the interpretation of the information at hand.

Transferring the above-mentioned processes to sex and gender aspects in risk assessment routines, the perception and understanding of "sex" and "gender" in general, and their meaning in the context of domestic violence in particular, of frontline responders, is more than important.

The following aspects, extracted from the interviews conducted with frontline responders expanded by fieldwork observational data collected in the partner agencies, underpin this statement.

Since high impact domestic violence seems to be mostly associated with the female sex, there is an increased likelihood that, if frontline responders are gender-biased, they will overlook men as victims of domestic violence in intimate relationships. In fact, studies suggest that women are as violent as men are. In some conditions, women could be the aggressors even more frequently than their violent or nonviolent male partners (Archer, 2000; Kelly & Johnson, 2008). There is an increased likelihood that in the case of male victims the signs of domestic violence are left unnoticed. One reason is that male victims seem to report incidents less often than female victims do. There is a strong social stigma associated with being simultaneously a male and a victim of domestic violence. In addition, it is less likely that it is reported by friends and family, because their perceptions are also gender-biased (Special Eurobarometer, 2016). This may be even more pronounced in countries in which gender norms and roles are more traditional. Consequently, in Eastern European countries, such as Estonia, Latvia, Lithuania, Poland, Czech Republic, Hungary, Slovakia, Romania, Bulgaria etc. with a low Gender Equality Index score (EIGE, 2017), the perception of a man being the victim of domestic violence is more likely inconceivable.

Gender is also an important human factor when focussing on offenders. While it is often assumed that women charged with domestic violence have a history of victimisation by their partner and much of their violence is understood as retaliatory and/or defensive (Downs, Rindels & Atkinson, 2007) or professionals believe that women are not capable of being the original perpetrator (Fitzroy, 2001), the same is not true for male offenders

that are mostly seen primary as the perpetrators because they are perceived as more aggressive due to gender roles (e.g. Eagly & Steffen, 1986).

Every social interaction is influenced by gendered perceptions (Ridgeway & Smith-Lovin, 1999). Gendered perceptions have to be present in the response to high impact domestic violence too (Anderson & Umberson, 2001). Therefore, most frontline responders are aware, that it makes a difference whether the victim is male or female and whether the frontline responder is male or female.

The perception and assumptions about one´s own and the other sex and gender are important for specific aspects regarding risk assessment as well. For example, the perception of a female police officer can be influenced by her sex (being female), her gender (e.g., how she sees her own role as a woman) and her own mind-set and expectations (e.g. woman can be very aggressive, too). This may have an impact on how she speaks with other women and with men (e.g. strong voice, holding eye contact). This can also influence how she assesses the risk, the aspects recognised as significant (e.g. who started the incident), and how she perceives the victim (what cues are most important to her e.g. outward appearance). Moreover, it also affects how she is perceived by the victim (male or female) and other frontline partners. For instance, a female police officer could be seen as less threatening by a female victim who may then more willingly share information.

Further examples can be found for instance, communication with a female victim might be biased when a frontline responder believes that women are the "weaker sex" and need to be protected. In this scenario, gendered perception runs the risk of re-victimizing the victim through the interrogation style using derogative words and not considering the victim as an autonomous individual for example. This might be responsible for victims not sharing all information that are relevant for the risk assessment because they do not feel as being taken seriously. Alternatively, a frontline responder may not take male victims' complaints seriously and may downplay the incident, because in this frontline responder's worldview, it is almost impossible to conceive that men can also become victims of domestic violence, which might end in an escalation of violence because the frontline responders do not intervene to end the violence against the man. Another scenario is that a frontline responder may not ask a male victim if he is financially dependent of his wife because in this socio-cultural context it is assumed that men are breadwinners and earn more money than women. Therefore, they might not be aware that the male victim is financially dependent on his wife and this is not reflected in the risk assessment of the victim.

Obviously, gender may be an additional factor in high impact domestic violence, however, based on our results, it is not integrated sufficiently in existing risk assessment tools and procedures. Thus, current tools and "gut feeling" assessments are less effective as

they could be due to a lack of awareness of potentially biased gendered judgements and the resultant misunderstandings. The awareness of sex and gender differences, particularly gendered perceptions and biases, in high impact domestic violence is of major importance to frontline responders. Therefore, sex and gender aspects should be integrated in all risk assessment instruments, formal or informal ("gut feeling"), that frontline responders use in their daily work. Even if a frontline responder is using an informal tool based on his or her own or organisation's experience, they should be trained about gender aspects to become fully aware of the effects gendered perceptions and biases may have on their professional judgements. Frontline responders should acknowledge that the requirements of legislation and professional ethics on gender equality are not a question of personal opinion.

How to improve risk assessment by better regarding sex and gender

The awareness of possible gender biases should be integrated in all risk assessment. Hence, we recommend based on the IMPRODOVA research results that the knowledge about the following scenarios that comprise sex and gender aspects should be included in risk assessment tools, procedures and trainings:

1) One reason why victims do not present all information about incidents of domestic abuse such as previous incidents and threats of violence may be related to being financially dependent on their abusive partners. To avoid this, risk assessments should assess victim's financial situation and current work situation independent on the sex of the victim. The male perpetrators are often asked about his/her current work situation because unemployment is commonly regarded as a risk factor for violence and female victims are more often asked if they are financially dependent due to gender beliefs. Any financial dependency could preclude them from reporting to the police. In such conditions, social services should be able to offer economic support for the needy victim so that she or he can quickly depart from the dependent relationship.
2) A factor that could influence how information is processed by frontline responders is the previous "sexual" history of the victim. This could include things such as frequent change of sexual partners, the way a victim is dressed or other aspects of his or her appearance. Thus, the sex of the victim and gender-related assumptions about how they are dressed etc., and expectations can influence how frontline responders perceive "facts" and process information. How they process the available information partly depends on the sex and gender of the frontline responder and this interacts with the sex and gender of the victim as pointed out in the research conducted. This has been already summarised in the Istanbul Convention (Council of Europe, 2011; Chapter VI, Article 54). The Convention stipulates that these gender aspects should

not be considered as alleviating factors releasing the perpetrator from the responsibility for his or her acts. The past sexual history of the victim should not influence the risk assessment of the frontline responders. Thus, questions about a victim's sexual history should not be part in risk assessment tools. It is crucial that any information about previous sexual behavior etc. do not indicate that the victim is to blame or responsible for what was done to him or her. But even if these questions are not part of the risk assessment tool, the frontline responder assessing the risk may unconsciously be influenced by implicit information and only if you are aware of that potential gender bias you will be able to take this into account when assessing risk.

3) Frontline responders should be aware that victims have gendered perceptions and conceptions that may lead biased interpretations too. This might influence the information that are released by the victim. In patriarchal households, it could be customary that victims are threatened by their partner or relatives if they deviate from gender-specific codes of conduct. In such conditions, victims may think that psychological violence is normal or common, and that it is not worth to be mentioned although it is formally regarded as an indicator in risk assessment. A good deal of harm caused by domestic violence is not physical, nor is it visible. The perception of non-physical harm is often gender-biased. To solve these problems, it is important to inform victims about their rights and what is regarded as violent crime in course of a risk assessment, including also non-physical acts, so as victims will share all the important information to frontline responders. Otherwise the range of non-physically or psychologically violent abusive behaviours that is experienced disproportionately by women at the hands of men is not detected adequately (Myhill, 2015; Stark, 2007). Another possible scenario that underlines how important this aspect is could be a man being financially dependent on his partner and psychologically abused by her or him: this man might relate the experienced violence on himself and sees himself as unmanly instead of recognizing and naming violence as violence and reporting it to the police. For the police, this situation is difficult to detect and to take into consideration regarding risk assessment.
4) It is likely that victims have their own assumptions about frontline responders' gender-based attitudes. These assumptions could make victims feel too ashamed to disclose all relevant information. Professionals have to reassure victims to share all information without a fear of being judged or moralised.

Discussion

To our knowledge little is known, and little research is done about to what extent and how sex/gender of the victim, the perpetrator and the frontline responder interact and influence risk assessment. The research that is available about risk assessment procedures does not include sex and gender aspects and is often outdated or focussing on female

victims (e.g. Dutton & Kropp, 2000; Hoyle, 2008). Our field research in the IMPRODOVA project presenting first EU-wide results indicating that risk assessment tools are too seldomly used and that frontline responders are rarely aware that sex and gender aspects influence the risk assessment. This undermines the effectiveness of existing risk assessment tools and procedures, since the non-inclusion of gender aspects will increase the likelihood that sex and gender related biases, gendered perceptions and interpretations, affect professional judgement and decision making negatively. Most frontline responder groups therefore do not meet the beforementioned standards of the Istanbul convention (Council of Europe, 2011).

In our opinion the most important aspect might be related to the human factors. Even if sex/gender aspects are included, frontline responders need to take them into account when assessing risks. Frontline responders must therefore be trained to reflect their own behaviour and judgement, because sex and gender aspects may not only affect the questions being asked but also how the questions are being asked and how the answers will be interpreted by those asking.

The appeal goes above all to the researchers as we recommend that more effort is put to research about sex/gender aspects in risk assessment and that, in a second step, the awareness of sex/gender factors will be included in current risk assessment tools, procedures and training by practitioners.

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STRENGTHENED COOPERATION WITH SOUTHERN PARTNER COUNTRIES: Achievements of the Euromed Police IV Project

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Abstract
The rapidly changing security environment in the Euro-Mediterranean region has made it imperative for international, regional, and state actors to engage in strategic and operational cooperation way beyond the traditional law enforcement fields. Risks arising from terrorism, trafficking in human beings, cybercrime, firearms trafficking, and drug trafficking are increasingly shared by both the EU and South Partner Countries. These challenges have brought about the firm willingness of affected EU and MENA countries to work together to enhance citizen's security by reinforcing law enforcement cooperation through joint capacity-building efforts under the aegis of the Euromed Police projects. This paper thus aims to shed light on and disseminate good practices related to the particular approach and tangible results of the EU-funded Euromed Police IV project. In early 2020, the project came to the end of its 4th phase, which makes it an influential law enforcement actor in the Euro-Mediterranean region.

Keywords: *Euromed Police, law enforcement cooperation, MENA region, organised crime areas, capacity-building*

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Introduction

Euromed Police IV was a regional project funded by the European Union for the period 2016-2020, implemented by a consortium[2] led by Civipol[3] under the supervision of the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations of the European Commission (DG NEAR). Three previous projects had been implemented between 2004 and 2014 (EuropeAid Cooperation Office DG, European Commission, 2005; European Commission, 2010; European Police College, 2010) before DG NEAR-funded Euromed Police entered its fourth phase. Over the course of the past 14 years, this project has yielded several long-term partnerships across the MENA region. The Southern Mediterranean countries (the People's Democratic Republic of Algeria, the Arab Republic of Egypt, Israel, the Kingdom of Jordan, Lebanon, Libya, the Syrian Arab Republic,[4] the Kingdom of Morocco, Palestine and the Republic of Tunisia), the EU Agencies and participating EU Member States (France, Italy, Germany, Romania, Spain, Slovak Republic, Netherlands) constituted the implementing partners of Euromed Police IV. The project's overall objective was to increase citizen security across the Euro-Mediterranean area through the strengthening of law enforcement cooperation between the Southern Mediterranean countries, as well as between these countries, the Member States of the European Union, EU agencies and thus the EU itself through the provision of tailored capacity-building, based on the principles and international standards for good governance, democratic accountability, the rule of law and the respect for human rights.

At the core of current EU priorities and strategic interests based on an equal partnership

The Euromed Police IV project fostered a form of cooperation that is adapted to the MENA region based on shared interests and with a flexible geographical area of action, allowing for different levels of involvement for partner countries without being excluded from the core activities. The European Commission published the package of anti-terrorism measures of the EU in October 2017 (European Commission, 2017a). This policy involved a proposal for enhancing Europol's cooperation with third countries, including Algeria, Egypt, Israel, Jordan, Lebanon, Morocco and Tunisia on the transfer of personal data between Europol and these countries to prevent and combat terrorism and serious organised crime (European Commission, 2017a: p.15). In December 2017, Europol Manage-

2 The implementing consortium members include the Directorate for international cooperation of the French Ministry of Interior (DCI), the International and Ibero-American Foundation for Administration and Public Policies (FIAPP), the German Agency for International Cooperation (GIZ), the International Security and Emergency Management Institute (ISEMI) and the Italian Ministry of Interior – Public Security Department.

3 A consulting and service company of the French Ministry of Interior.

4 The participation of the Syrian Arab Republic in the Euromed Police IV project was suspended temporarily.

ment Board adopted a list of priority countries, including but not limited to the ones as mentioned above, of which structured and regular cooperation is expected in the area of the mandate of Europol (Europol, 2017a). Although the EU Agency has the power to establish and maintain cooperative relations with competent authorities of third countries in general, Europol needs the Commission's recommendation to the Council to authorise opening negotiations with third countries (cf. Articles 23-25 of the Regulation (EU) 2016/794), in this case, Euromed project members, if the cooperation leads systematic, massive or structural transfers of personal data.

Furthermore, the overall objective of the reviewed European Neighbourhood Policy (ENP) is *"to support the stabilisation of Europe's Neighbourhood and its resilience"* (European Commission, 2017b: p.11) that lied at the heart of the efforts of Euromed Police IV, corresponding to the external and internal security nexus. One key finding of the renewed ENP is that terrorism, hybrid threats, cybersecurity, organised crime and external border management have all internal and external dimensions, suggesting that security at home largely depends on stability and peace beyond borders. The renewed ENP also provides that *"Terrorism, violent extremism and various forms of organised crime affect both the EU and its Neighbourhood. For these reasons, increasing security is a shared objective relevant to all ENP countries."* (Ibid. p.19) Shared objectives require a more balanced relationship with partners, based on better targeted and ENP objectives.

Furthermore, the new ENP also introduced a new approach that foresees greater respect for the diverse aspirations of the EU's partners, more successful pursuit of areas of mutual interest and new working methods to support a greater sense of ownership by the partners. Building on the considerations foreseen by the revised ENP Strategy, Euromed Police IV sought to continue to implement its particular approach to reflect more on the ambitions of its partners. It aimed for the trustful cooperation based on ownership over the policies decided by the parties in the framework of the EU assistance.

An innovative cooperation methodology for the MENA region

The Mediterranean is a key geographical area of interest for the European Union. Lying at the crossroads between Africa, the Middle East and Europe, it is an attractive hub for criminal networks operating across borders. In the last few years, the EU's interdependence with its southern neighbours has been brought into sharp focus, portraying the migration crisis and the rise of ISIL/Da'esh through powerful illustrations throughout the EU. Internal and external security aspects are more interconnected than ever, and most of the pressing security challenges for the EU Member States have both an internal and external dimension, including terrorism, hybrid threats, cybersecurity, organised crime and external border management, amongst others. (European Commission, 2015) Yet,

substantial intelligence and capacity-building gaps may be identified in light of the extent and nature of the multifold criminal activities in the Euro-Mediterranean area, which constitutes one of the regions where international cooperation is lagging.

Building on the European Neighbourhood Policy's (ENP) revised approach; the Euromed Police IV project developed an innovative methodology for cooperation within the Southern Mediterranean region, between the EU South Partner Countries (SPCs), EU countries and EU agencies (Europol, CEPOL, Frontex), international and regional police organisations (Interpol, Afripol), as well as international organisations (UNODC, UNHCR, IOM, etc.) working in the core priority areas. It intended to build a fully-fledged model embedding, in the same policy cycle, the assessment of the security landscape, the identification of the capacity gaps and cooperation needs, decision-making tools at different levels of action – from the technical level to more strategic levels of decision-making – and mechanisms to review the programming cycle. By developing its networks and mechanisms, Euromed Police IV paved the way for the establishment of longer-term structures of cooperation and effective co-planning between the SPCs and EU agencies specialised in the fight against terrorism and serious organised crime, each one in its domain of excellence: capacity-building for CEPOL and information sharing with Europol.

Consequently, the role of the Euromed Police IV was manifold. First, to optimise the impact of its capacity-building activities, it chose to provide *a coordinated technical approach to the Euro-Mediterranean law enforcement cooperation and regional police cooperation*, based on well-identified priority areas and the formulation of a strategy for increasing citizen security, similarly to the priorities established by the European Union at the EU Policy Cycle to tackle serious and organised international crime targeted by the EU member states' law enforcement community in the so-called EMPACT[5] projects. Accordingly, core priority crime areas included terrorism, trafficking in human beings and facilitated illegal immigration, cybercrime, illicit trading in firearms and drug trafficking. These core priority areas were complemented by cross-cutting criminal threats, namely document fraud, financial crime, and money laundering (Europol, 2017a: p.57) authorities have to address as regional (Euro-Mediterranean) security challenges related to organised crime of a transboundary nature adequately. Second, it aimed to boost *border control capabilities and strengthen crime analysis capacities and the exchange of information, thus strategic and operational cooperation***,** among Southern Mediterranean countries as well as with the EU Member States and EU Agencies (Europol, 2017b). To this end, the project sought to enhance the sharing and analysis of strategic criminal intelligence and the use of existing channels for exchanging operational criminal data in priority areas. And third, the project provided a *tailored capacity building in the indicated priority areas*, based on the

5 EMPACT is an acronym for European Multidisciplinary Platform Against Criminal Threats. (Council of the European Union, 2018)

identification of needs and gaps and promoted the sharing of existing expertise and best practices. (Euromed Police IV Project Team, 2017: p.1).

Figure 1. Euromed Police core priorities as defined by the Euromed Strategy (Source: Euromed Police IV Project Team)

EUROMED POLICE Priority areas

- **Terrorism & cyber-terrorism**
- **Irregular migration supported by criminal networks**
- **Trafficking in human beings**
- **Cybercrime**
- **Firearms trafficking**
- **Drug trafficking**

A platform for expert dialogue and inter-agency cooperation

The exchanges and the subsequent capacity-building actions provided senior and operational law enforcement professionals from the Euro-Mediterranean region, designated by their respective authorities to participate in the Euromed training activities. This also allowed an excellent opportunity to exchange work experiences concerning the priority areas defined by the Euromed Strategy. (Euromed Police IV Project Team, 2017). At the training activities, experts delivered practical presentations about their experience. They participated in field and institutional visits with fellow experts to explore the national practices of the hosting country at hand. Then, participants identified potential best practices and lessons learned in the given field. To ensure a maximum impact of the training events, the engagement of senior operational experts was ambitioned, and these experts were then encouraged to disseminate the best practices and lessons learned among their colleagues in the law enforcement environment. The ultimate aim of every activity was to enhance cooperation to improve the operational efficiency of law enforcement grassroots practitioners and other end users.

In addition to these mechanisms, two expert networks were established by the project. On the one hand, the *Euromed Analysis Network* is composed of national experts from the

national police forces of SPC countries, its members (one in each SPC, called ANASPOCs) carry out operational police work and have access to relevant data on organised crime and terrorist activities in their respective countries. *These single points of contacts* were appointed by the Partner Countries. They use standardised indicators developed during the project's implementation phase to update the Euromed Police IV team on the evolution of criminal trends at the national level. They further contributed to narrative descriptions and recommendations. In addition to that, the ANASPOCs collaborate among themselves through the *Euromed Threat Forum*, allowing for thematic discussions on threats and the exchange of strategic intelligence, notably via the *Euromed Threat Assessments*. The ANASPOCs meet face to face regularly to review intelligence gaps and strategic issues. However, it should be noted that the ANAPSOCs do not process operational data.

On the other hand, the *Euromed Capacity Building Network* was created in the framework of the project to identify capacity gaps and therefore, *training and capacity- building needs assessment* throughout the project. The Euromed Capacity Building Network is composed of one single point of contact appointed in each SPC (CAPA-Spocs). The CAPA-Spocs meet regularly to discuss changing capacity needs, as well as occasions of capacity- building planning.

Furthermore, in compliance with the principles of sustainability, Euromed Police IV established several processes and mechanisms that will continue to operate on completion of the project phase. These include the *Euromed Cooperation Strategy to Increase Citizen Security* in priority areas, an online *Euromed Threat Forum* for the ongoing exchange and analysis of strategic intelligence, as well as an online *Euromed Knowledge Base* for the current exchange of experience and development of training materials that are managed by the Euromed Capacity Building Network.[6]

Europol, CEPOL and Interpol as key partners

First, relying on its unique expertise in threat assessment and criminal analysis, *Europol (EU Agency for Law Enforcement Cooperation)* provided vital support to the Euromed Police IV project in the development of its primary outcomes. Europol advised the project team in setting up the Euromed Threat Assessment (EMTA) methodology as well as the questionnaires and indicators of the level of the threat. Europol currently hosts on its secure network the *Euromed Threat Forum* for the online exchange of strategic information regarding criminal threats. In addition to its technical support and expertise, the EU agency hosted the project's launching conference, high-level meetings and meetings of

6 For a cross-cutting summary, see the video footage of the (Euromed Police Team, 2018).

the Euromed Analysis Network, as well as it proactively contributed to the delivery of the first *Euromed Threat Assessment*. (Euromed Police IV Project Team, 2019)

Threat assessment and identification of priorities, in partnership with Europol

The project's implementation phase started with preliminary threat assessments carried out on the Southern rim of the Mediterranean, using a rigorous methodology. As a first step, a matrix and a set of EMTA questionnaires were developed by the project team, allowing to collect information in a structured manner. This was followed by identification missions conducted in each SPC to evaluate the specific threats faced by the different countries, therefore avoiding a "one-size-fits-all approach." Based on this study, the risks that constituted an essential matter of concern in most of the SPCs were then identified as priority areas where specific action plans were subsequently developed. Both the priorities and action plans were embodied in a Euromed Strategy for Increasing Citizen Security drafted and adopted by all the SPCs. At this stage, the advantages of such a methodology could already be discerned. First, it ensured that the project addresses *real problems* in the target countries that were identified in the assessment of local law enforcement practitioners and their perception of the national security context. Second, it ensured that the project *priorities* primarily address the most pressing issues for the SPCs. Third, it allowed *ownership* through a formal endorsement of the priorities and action plans at a higher level of decision-making, paving the way for strategic thinking ahead and building-up substantial and sustainable policies for several years. Therefore, Euromed Police IV did not only provide a framework for coherent strategic planning but set out the mechanisms for continuous assessment of the objectives, ensuring that they remain relevant in the context of an ever-changing criminal landscape and the shifting political priorities of partner countries.

The *EMTA* generated an in-depth analysis of serious organised crime and terrorist activities on both sides of the Mediterranean and identified needs and gaps in terms of criminal intelligence knowledge and analysis. With the EMTA, the project sought to provide an analysis tool that helps the Euromed law enforcement community to make informed decisions and facilitate the collaboration with Europol's serious and organised crime and counter terrorism areas. It also fostered the joint strategic analysis of the threats to facilitate the cooperation between the Euromed partners. At the same time, it aims to help define operational action plans, based on the identification of the threats. Besides, the Euromed Police IV project offered the SPC countries a fully-fledged cycle for intelligence-led decision making. The EMTA constitutes a tool to establish operational action plans based on the identification of the threats at the national, sub-regional or regional levels. Also, the SPCs rely on its insights to plan targeted and tailor-made capacity- build-

ing actions. The final version of the EMTA was published in September 2019. Later on, the EMTA will be reviewed regularly to identify new threats and adapt the action plans to new challenges. The EMTA questionnaires, ongoing re-evaluation of the risks carried out by the Euromed Analysis Network and supported by the Euromed Threat Forum, as well as senior technical control via high-level meetings and the Euromed Strategy constituted together a fully-fledged cycle for structured and systematic threat evaluation, intelligence-sharing and operational planning in SPCs, forming a system that fostered the long-term establishment of robust networks for the exchange of information based on trust. Strategic discussions were also held at a higher level of decision-making, involving the Heads of SPCs' national polices. These discussions took place in the framework of high-level meetings, which were regularly organised by the project team to allow SPCs to update each other on the evolution of priorities.

At each level of representation, the project created the conditions for a friendly and trustful environment for law enforcement cooperation. In addition to the project team's permanent interpersonal contacts with partners, the National Coordinators appointed in each SPC played an essential role in maintaining interest and stimulating Euromed networks. Each capacity building action was co-organised and hosted by one SPC in its national law enforcement training academy or police headquarters, contributing to building adequate inter-personal knowledge and trust. Furthermore, High-Level meetings enhanced SPC's political and strategic ownership over all the activities carried out in the framework of the project. Euromed Police IV allowed SPCs to engage in the enhancement of their security structures proactively. This sense of ownership sparked sustainable commitment of SPCs in Euromed Police IV cooperation mechanisms based on existing and active networks, at the law enforcement practitioner's level and higher political levels. This relationship based on shared interests, interpersonal contacts and trust is now firmly rooted. Partner countries had become acquainted with the processes, as well as with the "Euromed Police brand" that already benefits from visibility and reliability in the region. Very importantly, these mechanisms shall continue to operate after the completion of the project, which corresponds to one of the main principles of Euromed Police, that is sustainability, and thus constitute the basis of future cooperation.

Secondly, it was a tailor-made approach that improved ownership, sensitivity to the aspirations of partner countries, and flexibility. This original approach could stimulate change in the MENA region where South Partner Countries do not ambition joining the EU. Furthermore, the project provided regional cooperation with a better focus through well-defined priority areas and systematic identification of intelligence and capacity gaps. The result is sustainable and integrated cooperation structures that support well-implemented networks oriented towards operational results. In line with the European Agenda on Security committed to extending the work of the EU Policy Cycle to neighbouring countries, this "Euromed policy-cycle" could be integrated into the EU Policy Cycle. Directly

inspired by Europol's flagship strategic criminal analysis report, Serious and Organised Crime Threat Assessment (SOCTA) (Europol, 2017a) and the EU Policy Cycle, the EMTA and the Euromed threat assessment process are fully interoperable with the working methods of the EU Member States and the European Union institutions and agencies. The synergies between the Euromed Police mechanisms and the EU Policy Cycle would also permit planning joint operational actions with South Partner Countries. As a result, the Euromed Police IV project made a significant contribution to criminal information management concerning EU security and to delivering better operational impact in terms of operational support to ensuring the safety of the Euromed area.

Figure 2. A summary document of the Euromed Threat Assessment (Euromed Police IV Project Team, 2019)



Threat assessment for concrete results on the ground: targeted capacity building, in partnership with CEPOL

CEPOL (EU Agency for Law Enforcement Training) has been one of the key stakeholders in the project. At the same time, Euromed Police has also actively contributed to the establishment of CEPOL's longstanding strategic partnerships in the region. The *Euromed Mobility Scheme* was inspired by the CEPOL Exchange Programme and thus constituted the basis of the training context of Euromed exchanges, and thus his partnership has been crucial in the implementation of the training activities. Besides, a key expert was deployed to CEPOL to create the *Euromed Knowledge Base (EKB)* hosted and eventually owned by CEPOL. The EKB constituted a further EU commitment to provide yet another platform for law enforcement professionals both from EU and SPC countries to engage in discussions on the uploaded documents through various platforms to contribute to the formation of a body of knowledge and shared understanding of the training challenges, needs and gaps.

Threat assessment represented only one of the Euromed Police's two independent "policy cycles." As we shall go on to examine, capacity-building benefited from its network and autonomous policy development in the project in partnership with CEPOL. Although the two pillars of Euromed Police IV had their programming cycle, both are intertwined and self-reinforcing. Below we shall explain how threat assessments in SPCs feed in the identification of their needs in terms of capacity. Similarly, to the methodology used for threat assessment, the Euromed Police IV approach to capacity-building was based on an identification and prioritisation process that allowed targeting the most pressing capacity needs of SPCs.

The exchange of expertise taking place within the residential training was thus further complemented by field / institutional visits most related to the topic at hand in an attempt to enhance the participants' understanding of the good practices, lessons learned and the modus operandi of the different stakeholders of the host country. These visits generally took place in law enforcement facilities, nonetheless, for instance, during the exchange on firearms trafficking in January 2019, participants of the Euromed Police exchange were guided through the land border station at Nasib/Jaber constituting the crossing point between Jordan and Syria which had been re-opened only three months aforehand. Therefore, such field visits sought to provide participants with exclusive occasions of exchange, giving experts from both partner and EU countries a real opportunity to engage in further discussions substantially.

Figure 3. Total number of MENA participants in Euromed exchanges and capacity-building actions (Euromed Police IV project team)

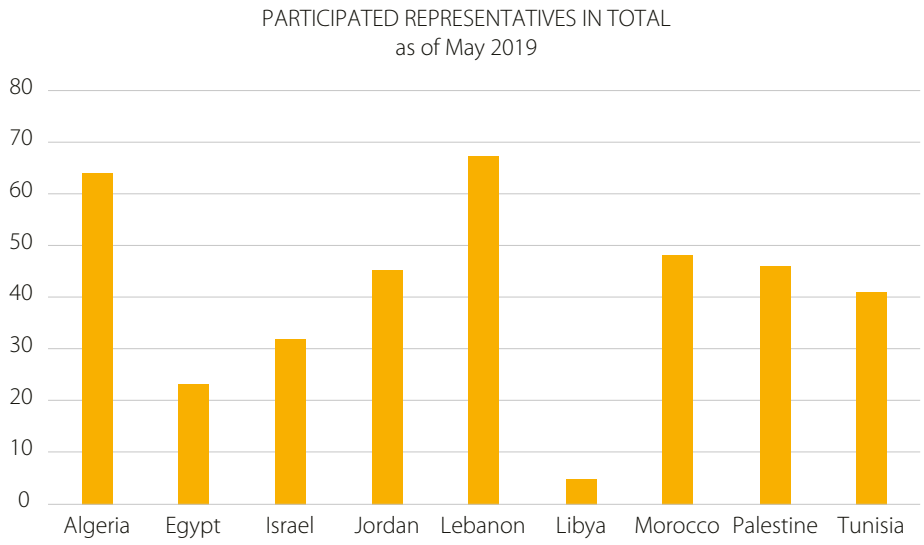
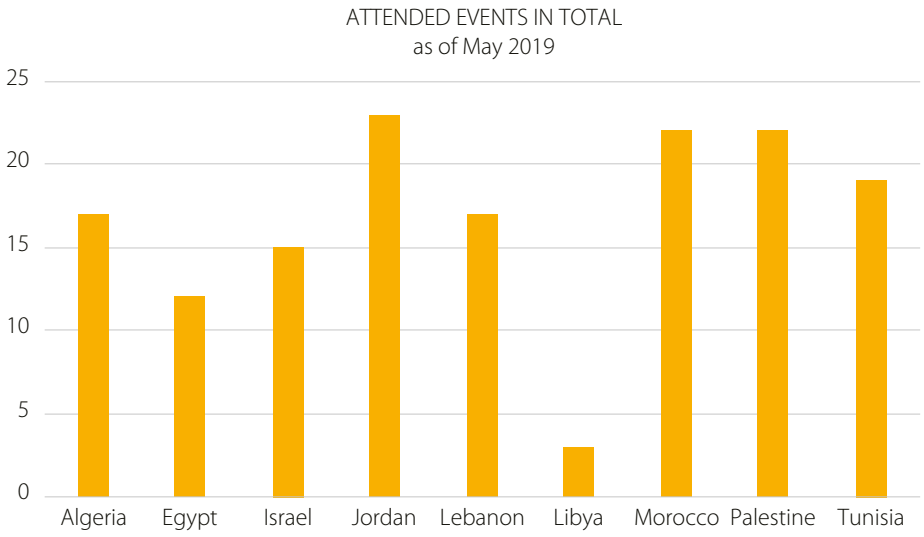


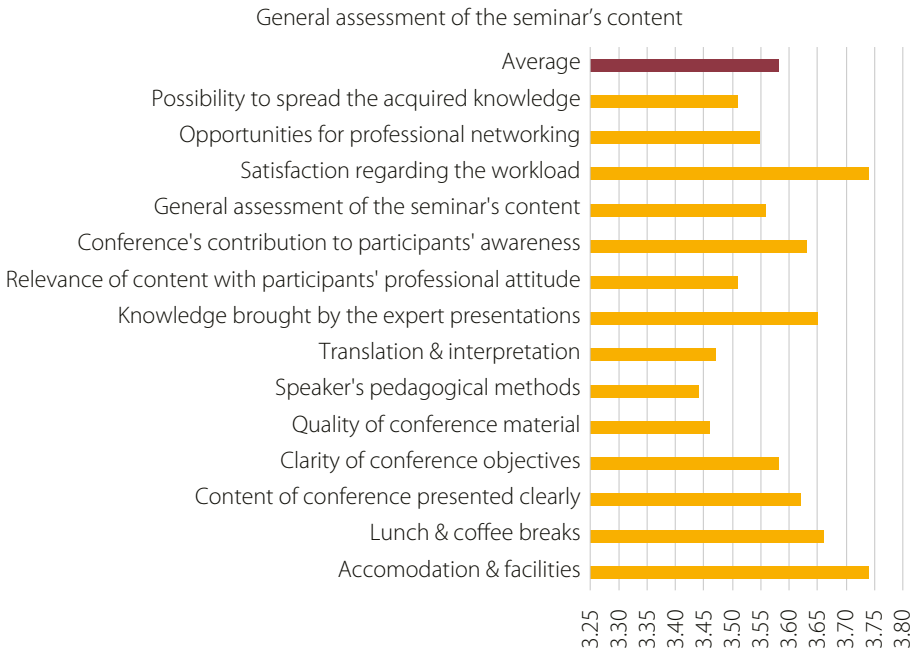
Figure 4. Country-specific data on the total number of MENA participants in Euromed exchanges and capacity-building actions before November 2018 (Source: Euromed Police IV Project Team)



The second step took the form of a more specific Euromed Police Capacity-Building Action (CBA) that was organised based on the results of an exchange to address the gaps identified during the training in one particular priority area of the project. For instance, a Euromed Exchange on counter terrorism was followed by CBA gathering experts in the field of online investigations, which had been described during the corresponding exchange as a central area of interest and one of the most striking capacity gaps in the field of counter terrorism for South Partner Countries.

As a third step and follow-up to the Euromed training sessions, the participating experts could

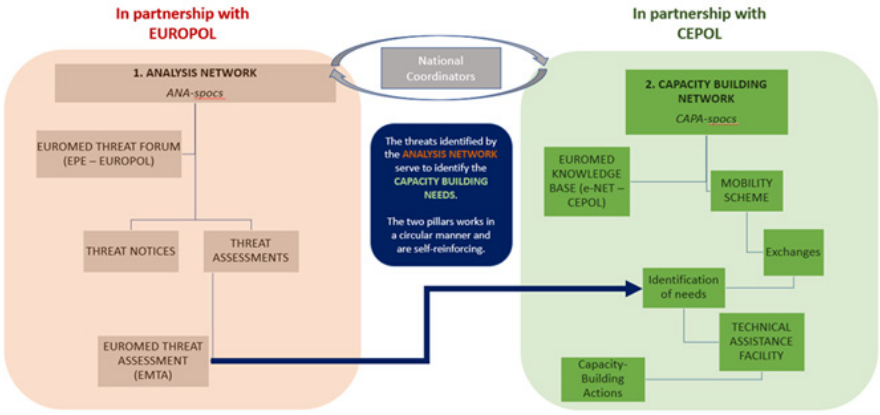
Figure 5. Evaluation outcome of the Euromed capacity building activities related to the detection of foreign terrorist fighters taking place in Algeria in November 2018 (Source: Euromed Police IV Project Team



upload and access relevant materials for police practitioners on the *Euromed Knowledge Base (EKB)*. This online platform is hosted on the CEPOL secured electronic network, providing a platform for the Euromed Capacity Building Network for the ongoing exchange of information and experience, as well as for the development of training materials to be uploaded on the EKB. Therefore, the principal objective of the EKB has been to facilitate

the development of educational packages that may be used for training purposes, including educational packages developed after the capacity building actions, including manuals, guidelines and best practices, as well as other vital documents. The platform is managed by the Euromed Capacity-Building Network's points of contact in the South Partner Countries. This ensures that the outcomes of the Euromed capacity-building activities are stored sustainably and contribute to building longstanding networks. To give an example of the training materials, the Euromed Manual on Digital Evidence aimed to focus on taking practical measures that could help to mitigate the use of the Internet. The manual created a standard guideline for the law enforcement agencies and judicial authorities to address the requests (LEJR) for digital evidence to the service providers. Counting on the support of the UN-CTED, and other partners, that law enforcement services and judicial authorities will obtain and use evidence successfully that can facilitate the conviction of criminals. To produce the guidelines manual to request internet-related data and content within the framework of counter terrorism and accessory crimes investigations, prosecution and trials Euromed Police and Justice described the types of requests (judicial and non-judicial), the content and the procedure for each one of the information claims, to be correctly processed by the US Justice. Finally, INTERPOL also provided significant support to the capacity building pillar of the Euromed Police IV project, while enhancing the use of Interpol's databases in the ENI partner countries of the project.

Figure 6. Mechanisms established by Euromed Police IV in cooperation with Europol and CEPOL (Source: Euromed Police IV Project Team)



Conclusion

The longstanding partnerships, training activities and the number of functioning tools and mechanisms fostered by Euromed Police during the four phases of the project have rendered this EU-project an acknowledged regional actor in the Euro-Mediterranean law enforcement cooperation. The achievements of the recently completed Euromed Police IV project lie mainly in its particular approach. As set out aforehand, Euromed Police IV was a capacity-building project with a flexible geographical scope that was based on the identification of operational needs and addressing specific operational issues. It was aimed at the law enforcement community and intended to foster cooperation through working towards the establishment of a friendly and trustful environment for law enforcement cooperation. This model allowed for mutual trust and equal partnership based on commonly identified shared interests. The diversity of political regimes, working methods, cultural values and the ENP countries' strong will to remain masters of their own choices, pushed the EU to rebuild partnerships that are more tailor-made to the needs of those states. Also, South partner countries, in particular, should not only be seen as project beneficiaries, for instance of capacity building activities, but rather as strategic partners in maintaining the security of European countries. The project framework thus allowed for flexible cooperation arrangements that enabled each partner to engage in project activities to the extent they wish, taking into account their political priorities and capacities. This approach provided an opportunity for partners who wanted to deepen their cooperation with the EU while allowing other partners who wanted to be less involved to remain part of expert discussions without any compromise. The project thus enabled partnerships to be more tailor-made and differentiated to reflect better on the different security ambitions, abilities and interests of the partner countries. Furthermore, the structures established by the project allowed for flexible cooperation at different levels of governance, from the technical level to higher levels of representation, granting varying degrees of collaboration in terms of geographical area, from the country, sub-regional to regional initiatives involving all South Partner countries.

Through the Euromed activities and processes, the project did not only improve dialogue progressively but in the contexts of technical, operational and strategic cooperation as well. Euromed Police IV offered South Partner Countries the possibility to engage in the creation of permanent structures that will help them to cooperate with EU agencies such as Europol and CEPOL in a structured way and on an equal footing with EU countries. Thus, Euromed Police IV proposed a unique and integrated model for cooperation where South Partner Countries contributed to shape and build their model for collaboration and thereby a "cooperative regional order" for security in the Euro-Mediterranean area. From an EU point of view, the project helped to implement the European Agenda on Security committed to extend the work of the EU Policy Cycle to neighbouring coun-

tries to enhance the prevalence of human rights, legal approximation and administrative reforms through a better targeted, more dynamic, functionalist and sectorial approach. (European Parliament and the Council, 2016) To uphold the sustainability of the capacity-building efforts of Euromed Police IV, the continuation of the project shall be essential. While the future may bring other approaches in the coming years, the established strategic partnerships, strong institutional and inter-agency synergies, as well as the growing security need for more rapid information exchange have paved the way for the project to become an operational cooperation platform

Acknowledgements

Special thanks to the Euromed Police IV project team, including Michel Quillé, Carlos Garcia and Benjamin Bricheux, for their insightful comments which were a valuable contribution to the paper.

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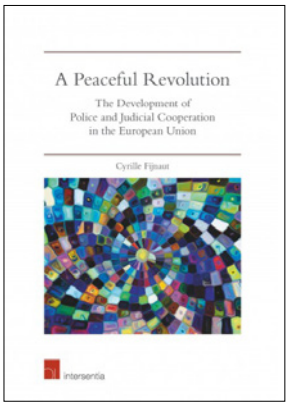
BOOK REVIEW

A Peaceful Revolution: The Development of Police and Judicial Cooperation in the European Union

Cyrille Fijnaut

Cambridge, UK, Antwerp and Chicago: Intersentia, 2019
ISBN 978-178068-697-4

Reviewed by:
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Police practitioners are familiar with the institutional setting in which they are currently working, but few know many details about the history of their police force, let alone the history of police bodies of other European countries. Such a knowledge gap is even more the case for international police cooperation; today this is still an area in which only a limited number of practitioners is involved. However, knowledge of its historical context and development is of crucial importance for the understanding of the current state of international police cooperation and its limitations.

International and European police cooperation have gained some attention from researchers in various scholarly disciplines since it became more institutionalised after 1990. However, only a few historians have carried out research in this area of recent history that is highly relevant for the understanding of today's cooperation practice. Therefore, this opus magnum by Cyrille Fijnaut fills a gap due to its broad and exhaustive approach based on a high number of documents and publications as well as on the author's longstanding research in this area.

Fijnaut – professor emeritus of criminology and criminal law at Erasmus University Rotterdam, KU Leuven and Tilburg University – has always been interested in more than just the current issues of crime and criminal law. He is the leading scholar regarding the history of policing and transnational police cooperation in Europe (see Van Daele 2020). Based on his longstanding teaching experience, he has now published an astounding book on the history of police and judicial cooperation in Europe, including recent developments during the past decade. The book was first published in Dutch in 2018. The publication of an English version makes it more accessible for an international audience – in contrast to some of Fijnaut's publications in Dutch that have never reached a broader international public, i.e. his doctoral thesis *'Opdat de macht een toevlucht zij? Een historische studie van het politieapparaat als een politieke instelling'*. Published in two volumes in 1979, Fijnaut's thesis paved the way for his interest and expertise in explaining the functioning of today's police agencies in the context of their own history and of the evolving political systems within which they function. The list of references in Fijnaut's new book underlines his role as one of the leading scholars in the field of interdisciplinary legal and historical research on police and judicial cooperation – the references to publications authored or co-authored by himself cover more than five pages (p.757-762).

Fijnaut has always positioned recent developments of police cooperation within a wider historical context. In his new book, he situates its beginnings in the Napoleonic Empire (p.10) and demonstrates with a number of examples that such international cooperation in policing had started long before Interpol's predecessor was established in 1923.

Fijnaut organises this opus magnum in a chronological fashion, which makes it easier to use for people who do not want to read the book from the beginning to the end, but rather need information on a specific period or cooperation initiative. However, the author sometimes disregards this organisational principle for good reason when he summarises the destiny and impact of specific initiatives or policies outside the chronological order. As not all of the numerous policy initiatives meant to bring forward international police and judicial cooperation were successful at the end, information on the outcome and reasons for failure is important and interesting in order to understand why a policy initiative succeeded or failed. For this purpose, the book uses at some points the heading 'A sketch of their implementation' in order to explain major developments in the 1990s and 2000s – for Schengen and Europol (p. 232ff.), Eurojust, the plans to establish a European Public Prosecutor's Office (EPPO) (p. 259ff.), and the *Framework Decision on the fight against Organised Crime* (p. 392ff.), among others.

In this book, Fijnaut asserts that the initiatives that led to the establishment of Interpol date back to the early 20th century. This information is not new, as several researchers and journalists have investigated the origins of Interpol in the past decades (e.g. Deflem, 2002; Greilsamer, 1997). Fijnaut summarises the relevant information in chapter 2.3 (p. 21ff.).

The role that the Council of Europe has played for establishing the framework for police and judicial cooperation is another important element that explains the current state and the institutional settings of this policy area in Europe. The chapter on the 'earlier involvement of the Council of Europe' (p. 93ff.) demonstrates the CoE's crucial role in the establishment of more coherent rules for mutual legal assistance. This legal framework is now becoming even more important again after Brexit, as the more specific (and mostly more efficient) EU rules might not be applicable any more vis-à-vis the UK in the future. The book's chapter on the Council of Europe also provides a useful overview over the European Court of Human Rights' case law on police and judicial cooperation (p. 116ff.).

Beginning with chapter 3.4 (p. 120ff.), Fijnaut explains the involvement of the European (Economic) Community (E(E)C), the predecessor of what is today the European Union, in police and judicial cooperation. This period was characterised by an informal cooperation infrastructure, complemented by a limited number of cooperation projects inside the EC framework, namely UCLAF, the anti-fraud body established in 1988 that later became OLAF (*Office Européen de Lutte Anti-Fraude*). The late 1980s, the period in which the Treaty of Maastricht was under negotiation, can also be perceived as a crucial period for the development of police and judicial cooperation in Europe as numerous initiatives that characterise this cooperation in Europe of today date back to this time. Such initiatives include the Schengen area, Europol and the European Union's 'third pillar' that was established by the Treaty of Maastricht and fully integrated into the new EU setting with the Treaty of Lisbon in 2009. Fijnaut summarises the developments during this period in chapter 4 (p. 145ff.).

Between the Treaties of Maastricht and Lisbon, the Treaty of Amsterdam – which entered into force in 1997 – marks the beginning of another important period for police and judicial cooperation in the EU, which Fijnaut describes in chapter 5 (p. 205ff.). Integrating major parts of the Schengen cooperation into the EU's first pillar and strengthening the EU's role for police and judicial cooperation, this treaty facilitated the end of a purely intergovernmental cooperation in the 'third pillar'. This period was also characterised by a number of major programmatic documents, namely the 1999 Tampere Programme, and by multiple policy initiatives taken in reaction to the terrorist attacks of 11 September 2001. Likewise, the establishment of the first Police and Customs Cooperation Centres for bi- or multi-lateral cooperation in the (former) border regions is another important development that goes back to the late 1990s (p. 250ff. *et passim*).

Chapter 6 (p. 311ff.) covers the developments in the mid-2000s in connection with the Hague Programme (2005) and with the draft Constitutional Treaty, that never entered into force. Nevertheless, this can be perceived as an important period of consolidation. In response to a series of terrorist attacks in London, Madrid and other European cities, it became a high priority to make existing cooperation infrastructure such as Europol more

effective. The debate about the 'principle of availability' regarding access to police information available in other member states and the interoperability of information systems for Justice and Home Affairs dates back to this same period of the Hague programme (p. 362ff.). Both of these topics are still on the agenda today. Likewise, the 'European Arrest Warrant', introduced in 2002, became a success story at that time (p. 381ff.), replacing lengthy mutual legal assistance procedures by more efficient cooperation for most trans-border arrest cases inside the EU.

With part III and chapter 7 on the Treaty of Lisbon and the Stockholm Programme, the book shifts to 'the current state of police and judicial cooperation' in the EU (p. 441ff.). The term 'renewal', which the author introduces to refer to police cooperation in that period (p. 471), is justified due to the consolidation of the existing cooperation infrastructure that occurred. The establishment of revised legal bases has been on the political agenda for the EU's Justice and Home Affairs since 2009 as one of the elements of this renewal. Instead of establishing additional cooperation infrastructure, existing bodies such as Europol and Frontex were strengthened. The only major new bodies established since this time draw from ideas developed much earlier: the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) and the European Public Prosecutor's Office (EPPO) (p. 505ff.). The EPPO will function based on a Regulation passed as enhanced cooperation (Article 86 TFEU) in 2017. Until now, only 22 out of the 27 EU member states have joined the EPPO, which is currently preparing for the start of its operational work planned for the near future (Aden et al., 2019).

Chapter 8 (p. 583ff.) traces other recent developments such as the establishment of a 'Security Union' (p. 585ff.) and the impact of the 2015 migration crisis on police and judicial cooperation in the EU (p. 592ff.) including the establishment of new databases combining policing and migration purposes and steps towards the interoperability of these databases (p. 614ff.). Another section of this chapter discusses the impact of Brexit on police and judicial cooperation (p. 670ff.).

Finally, in chapter 9, the book finishes with a 'general conclusion' (p. 719-727). This chapter briefly summarises the main findings of the book and ends with an outlook at political initiatives to be laid down in a programmatic document for the further development of EU police and judicial cooperation in the period 2021 to 2027.

With this publication, Cyrille Fijnaut has compiled a broad base of information that will be useful for scholars and practitioners interested in how police and judicial cooperation in Europe has come into being and developed in a long-term perspective. This alone is an outstanding merit of this book, which is likely to become one of the main references in this area. The publisher could have further supported this achievement not only with

the English version of this book that is now available, but also with offering an index that could have facilitated the ability to find information on specific agencies, bodies or policy initiatives in this opus magnum.

Fijnaut's (mostly implicit) normative assumptions and the theoretical framework that he used for the general narrative throughout the book might be the subject of a critical debate. This is particularly the case for the term 'peaceful revolution' used in the title and further explained and discussed in the final chapter. However, the rich material that this book brings together could lead to the assumption that the current state of police and judicial cooperation in Europe can be explained by path dependencies and a long history of trials and errors, rather than by a 'revolution'.

Scholars of historical institutionalism will find in this book the raw-material necessary for identifying path dependencies that explain continuity (for example the member states' struggle not to lose too much influence in this policy area) and critical junctures such as the end of the cold war and the 2001 terrorist attacks that led to enhanced Europeanisation of this policy area. Critical security studies and civil liberties groups will probably not concur with Fijnaut's generally positive view on the practice of enhanced police cooperation, on the merging of policing and migration policies (critically analysed by 'crimmigration' scholars; for example Arriaga, 2016; Brouwer et al., 2019) or the recent shift from the *Area of Freedom, Security and Justice* to a *Security Union*. Nevertheless, independent from the normative positions and various backgrounds that readers may come from, all who are interested in this topic will find in this book rich material for further interpretation and debate. For practitioners, the book will be helpful to better understand the institutions, agencies and bodies that currently characterise police and judicial cooperation in Europe – and their limitations.

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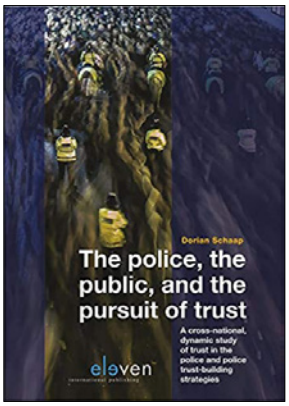
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The Police, the Public, and the Pursuit of Trust

Dorian Schaap

Eleven International Publishing, Den Haag, 2018
ISBN: 978-94-6236-845-3

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The comparative study of police systems has grown exponentially since the pioneering work of David Bayley (1985). This is so both among academics and among police managers, as the global village has allowed policy transference between police organisations in various countries (Jones & Newburn 2006), albeit such transfers have been more about 'mix and match' than direct adoption of police successes, where they exist. That said, much of the comparative literature is heavily influenced by the Anglo-American tradition of policing studies. It is thus refreshing to report on comparative analysis of three Northern European countries carried out by Dorian Schaap, a Dutch sociologist.

As the title indicates, Schaap's study addresses trust in the police, a topic that has been of concern to both academics and the police across the world (Goldsmith & Harris 2012; Jackson & Bradford 2010), and is of particular relevance in the wake of the killing of George Floyd by a police officer in the USA. The book is broadly divided into three sections. In the first, Schaap seeks to define trust and offer alternative explanations for changes in public

trust in the police. Secondly, he uses secondary sources to compare public trust within Europe and changes over time. Finally, he reports on his primary research with 'experts' in three European nations – England and Wales, Denmark and the Netherlands – to address how trust is perceived by police and their political masters, and what strategies have been adopted to increase levels of trust.

In the first section, Schaap discusses the concept of trust. As he readily acknowledges, trust is only one aspect of public perceptions of the police: efficiency, effectiveness, fairness, legitimacy, satisfaction, confidence, approval, etc. have commonly been used to measure public attitudes towards the police and may overlap to a greater or lesser extent. Moreover, Schaap informs those of us with more limited language skills than his that in many languages the same word denotes both trust and confidence. That said, Schaap moves on to consider modern strains of professional policing that underpin the concept of trust. Following, albeit unacknowledged, Wilson's (1968) distinction between v*arieties of police behaviour,* he identifies three paradigms: proximity policing; instrumentalism; and procedural justice. These, he argues, are distinctive but overlap. Proximity policing emphasises a close relationship between police and public, best epitomised by community, neighbourhood or problem-oriented policing, with the public commonly viewed as partners in crime prevention. Instrumentalism prioritises results through police targets, with the public viewed as consumers who merit a police service that is both efficient and effective in providing what consumers want. Procedural justice focuses on openness and equal treatment. Like instrumentalism, the public are seen as consumers; like proximity policing they are entitled to full explanations for police decision-making, but in contrast to proximity policing they should be treated equally rather than through applying discretion.

In the second section of the book, Schaap considers variations in trust across Europe. He argues that there is widespread concern that trust in the police has declined and suggests three possible reasons for this: the desacralisation thesis, applied particularly in Britain (Reiner 2010), that suggests the crumbling of a Golden Era when the police was admired and revered; the safety-utopia thesis that the police has been held accountable for rising crime rates; and the post-authoritarian paradox thesis, more commonly associated with new democracies, where crime may have risen but where publicisation of crime is undoubtedly greater than under communism.

However, when Schaap considers findings from the European Values Studies (EVS), 1981-2008, and the European Social Survey (ESS), 2004-2014, he finds little to justify high or rising mistrust in the police. While there are variations across Europe, there is little evidence that these are related to his three policing paradigms, although proximity policing appears to have a moderate effect on trust levels. Nor is there any strong evidence of a decline in trust, the exception perhaps being in England and Wales. Moreover, compared

with other public institutions levels of trust in the police appear relatively high. Perhaps most surprising, in the light of the subsequent *Black Lives Matter* movement, there is little evidence of race/ethnicity differences.

So does this imply that the police have successfully addressed public concerns? In the third section, Schaap takes three case studies, England and Wales, Denmark and the Netherlands, and through a detailed review of public concern and police responses in the post-war era, supported by interviews with key informants from the police, civil servants and governments, considers the priorities identified and the policies adopted to address them. In England and Wales, he considers crises of confidence epitomised in the Brixton riots, the miners' strike and the murder of Stephen Lawrence against the backdrop of rising crime rates, and argues that proximity policing was the main strategy deployed to increase public confidence, with performance targets illustrating a recognition of instrumentalism. Interestingly, centralising tendencies within the police, notably in the closure of rural police stations, gets scant acknowledgement. In contrast, the move to centralisation is seen as an important component of shifts in trust in Denmark. There riots in Norrebro in 1993, against the decision to join the EU, was a further example of inner-city riots that questioned the assumption that public trust in the police was high. However, Schaap argues that trust was rarely acknowledged as an issue, illustrated in the consistent prioritisation of instrumentalism, where the police decided that public approval would be gained if they concentrated on reducing serious crimes, that is, crimes the police decided were serious. In contrast to England and Wales and Denmark, Schaap argues that in the Netherlands the experience under Nazi occupation meant the police were regarded with suspicion. Youth conflict, police violence and a hostile press fuelled public mistrust. While proximity policing was seen as the preferred strategy to counter this, centralisation, performance targets introduced through NPM, and a focus on procedural justice meant that the police were drawn in different directions, with tensions most evident in the policing of minority communities.

In drawing together the evidence from his case studies, Schaap clearly identifies proximity policing as the most effective means of enhancing public confidence in the police. However, it is equally clearly not sufficient, as he acknowledges in quoting Jackson and Bradford (2010, 245): 'A trustworthy police force is seen by the public to be effective, to be fair, and to have shared values, interests, and a strong commitment to the local community.' That is, instrumentalism and procedural justice are also important elements.

So where does that leave us, academics, policy-makers and practitioners? It is no criticism to say that Schaap provides no definitive answers. Social scientists rarely do! But he poses a number of questions that stimulate thought and may ideally inform policy.

His analysis is also not uncontroversial. The Comparative researcher is perhaps the social science equivalent of the pentathlete in athletics: admired for versatility and wide-ranging ability but 'a master of none'. In my own scholarship on comparative police systems (Mawby 1990; 1999), I confronted the realisation that my interpretation of policing in individual countries could be unpicked by specialists from any one country. While Schaap limits this danger by sensibly focusing on only three European nations, he is inevitably open to the same problems. For example, in buying into the myth of a British 'Golden Age' of harmonious police-public relations, he sometimes forgets that this was, indeed, a myth. My own childhood rooted in a mining community with memories of the miners' strike and subsequent General Strike (1926) contained no elements of a trusted police force and was more in line with the image portrayed in the miners' strike of 1984-1985 (Fine & Millar 1985). By that time, of course TV portrayals of the policing of protests gave a dramatic edge to newspaper presentation from earlier conflicts, a trend that has developed exponentially through social media in the smart-phone era, where video footage of recent police killings of suspects in the USA raises public awareness of police brutality to a new level. Another problem with relying on oral history and secondary sources is that decisions are selectively justified, by policymakers at the time and subsequently by commentators. Changes to police structures and policies may be justified as led by a desire to improve police/public relations because this has widespread appeal rather than because it was a key priority of policy makers. Thus, Schaap's discussion of the creation of Police and Crime Commissioners in England and Wales as a means of enhancing community accountability is disingenuous. What it did, as then-Home Secretary Theresa May wanted all along, was to strengthen the *political* accountability of the police, with public accountability minimal, and by 2016 all Police and Crime Commissioners were nominees of the two main political parties (Mawby & Smith 2017).

Finally, it must be stressed that the primary, detailed research by Schaap depends on interviews with former police managers and participants in the policy making process. There are no interviews with those publics whose trust in the police is central to the debate, other than secondary data using a couple of questions from cross-national surveys. At least two questions arise from this. On the one hand, do citizens hold different views depending on which police? This is clearly crucial in European countries where there are two or more police systems: for example, do the French public accord greater trust to the *gendarmerie* than to the *police nationale,* or *vice versa*? But specialisms within all police organisations mean than there are different policing bodies that might be viewed very differently by the public: drug units, public order police, detectives, neighbourhood officers etc. On the other hand, how do different sections of the population perceive the police? Does the cross-national finding of no ethnic distinctions hold up to more nuanced critiques? Do those who come into contact with the police in different contexts – as victims, suspects or witnesses – view their trustworthiness differently? After all, a police system should be judged according to the experiences of all those groups of actors who

pass through: victims need to be able to trust the police to treat them with respect and their complaint with diligence and efficiency; suspects need to be able to trust the police to conduct a thorough investigation and not plant evidence or misrepresent the facts. To gain the trust of these different actors may be an impossible target, but it is surely important to identify where the inevitable weaknesses lie.

These questions are not ones that Schaap sought to answer, and it would be unfair to use them to criticise him. Rather, this text should be viewed as a stimulus for future researchers to compare trust in the police in different societies from different perspectives.

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