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SCIENTIFIC INDICATORS OF CONFIDENCE IN JUSTICE: TOOLS FOR POLICY ASSESSMENT

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<u>Task 6.4:</u>	Assessing policy through the new indicators of public confidence
<u>Deliverable 6.3:</u>	Guidelines for assessing policy using the instrument

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Summary

The research project JUSTIS (Scientific Indicators of Confidence in JUSTIS: Tools for Policy Assessment), which is funded primarily by the European Commission from the 7th Framework Programme for Research, is designed to provide EU institutions and Member States with new indicators for assessing public confidence in justice.

The core of the project was work developing and piloting a balanced portfolio of indicators. This report provides guidance to policy makers on how to assess policies aimed at improving public confidence.

Key points in the report are as follows:

- Member states would benefit by using survey-based indicators of public trust in justice
- Those countries that took part in the fifth European Social Survey (ESS) will very shortly have access to a large comparative dataset designed by the Euro-Justis team showing levels of trust and concern about crime in their jurisdiction, set in a wider European context.
- Those countries that did not take part in the ESS should consider various options:
 - Mounting a survey that uses the full suite of 80 Euro-Justis questions
 - Inserting the ESS module of 45 questions in a larger survey
 - Inserting a much smaller number of questions in an omnibus survey or similar.

1: Introduction

By any standards, Europe faces a number of challenges over the next few decades. We face a period of economic turbulence, triggered in the short term by the 2008 banking crisis and in the longer term by changes in the centre of gravity of the globalized economy. Whilst these changes may present rich opportunities to many Europeans, it will very probably make life harder for the poorest groups. With equal certainty we can anticipate in the middle term forms of climate change with unknown implications. These developments will bring with them rapid social change and – possibly – large-scale migration within and into Europe.

All of these changes are likely to pose increased rather than reduced problems of social order. Strained economies are likely to result in less social justice and in greater income disparities. It may be that the factors that have driven crime down in many industrialised countries over the last decade and a half will offset these criminogenic trends. But it would be complacent simply to assume that this will prove the case. Any intelligent criminal policy should anticipate the worst – and be grateful if the predictions fail to come true.

But in a time of particular austerity, how should European member states set about strengthening their crime policies? The strategy pursued in the United States – exponentially greater expenditure on policing and punishment – hardly seems a 21st century solution. This report sketches out a different approach, which relies on building public trust in justice, public belief in the legitimacy of justice institutions and thus public commitment to the rule of law. The argument in brief is that if people trust criminal justice agencies, such as the police, they will regard them as a form of legitimate authority; they will then defer to this authority, obey the law and cooperate with the justice system and comply with the law. Institutions build legitimacy through public trust. To earn trust, justice officials must treat citizens respectfully and observe their rights: the end result will be a system of justice that is both humane and effective. If, on the other hand, the police and other justice officials lose public trust, this will breed public cynicism about the rule of law and encourage law-breaking.

The Euro-Justis Project

The ideas and research findings presented here derive from the Euro-Justis project, funded under the European Commission's 7th Framework Programme for Research. The project had nine

partners in seven EU member states.¹ Its remit was to develop social indicators on trust in justice to enable evidence-based public assessment of criminal justice across Europe. At the heart of the project was an effort to create a standardised system of scientific survey indicators that can be used by member states to measure confidence in criminal justice, and to support the development of more inclusionary criminal justice policies designed to secure commitment to the rule of law and thus compliance with the law. From 2008 to 2011, the Euro-Justis project examined the need for such indicators by interviewing criminal justice professionals across Europe (Jokinen et al, 2009);² developed scientific survey-based indicators on trust in justice, including a set of questions selected for the European Social Survey which covers 28 countries; collected country-level contextual data to appreciate nationally specific issues to interpret the survey measures; and fielded and validated those indicators in several European countries.

The 'trust in justice' module of the European Social Survey (ESS)

A significant outcome of the Euro-Justis project was a successful bid to the ESS for space in its fifth sweep, conducted in 2010. The ESS, conducted with support from the EU but with fieldwork funded by individual member-states, consisted of a core questionnaire and variable modules. Academic researchers are invited to bid for space in these modules, and members the Euro-Justis team bid successfully for a 45 question module, which in essence was a core set of Euro-Justis questions (see Jackson et al., 2011). The end result is that we have not only have *developed* a suite of questions on trust in justice, but have already fielded these questions in a large social survey carried out to high standards in at least 28 European countries. At the time of writing, data were due to be available in the Autumn of 2011. The total sample will include around 40,000 adults.

Whilst we regard this development as a very positive one, it meant that the Euro-Justis project did not develop in precisely the way that was envisaged when we submitted our proposals. The project ended up yielding – directly or indirectly – a number of different 'products':

¹ **Euro-Justis - Scientific Indicators of Confidence in Justice: Tools for Policy Assessment** (duration: 1/3/2008-31/6/2011) is a Specific Targeted Research Project funded under the Socio-Economic Sciences and Humanities Programme of the 7th Framework Programme for Research of the European Union, Thematic Priority 6 – Socio-economic and scientific indicators. Project website: <http://www.eurojustis.eu/>

² JUSTIS Project Working Papers Review of Need: Indicators of Public Confidence in Criminal Justice for Policy Assessment (available from: <http://www.eurojustis.eu/fotoweb/34.pdf>).

- A small number of 'headline indicators' for use in existing surveys
- A free-standing set of 45 survey questions used in the ESS, which provide key measures of trust in justice, perceptions of legitimacy, cooperation with justice and compliance with the law
- A suite of 80 questions (including the ESS items) that provide exhaustive coverage of trust, legitimacy, cooperation, compliance, fear of crime and punitivity.

The set of core ESS questions were piloted exhaustively as part of the ESS developmental process. The larger set of 80 items was also piloted as part of the Euro-Justis project in Bulgaria, Italy and Lithuania; a parallel survey was mounted in the Czech Republic. Finally, an adapted questionnaire was piloted in France, designed specifically to examine the relationships between police and ethnic minorities.

The shape of this report

This report marks the completion of the Euro-Justis project. It does two main things. First, Chapter 2 sets out a conceptual framework – or a set of ideas – about 'trust-based justice', arguing that building trust in justice ought to be a central priority for governments across Europe. It explains why we believe it is important to use indicators of public trust in justice as a barometer for testing the state of criminal justice systems across Europe.

Second, Chapter 3 proposes practical ways in which member states can and should measure public trust in justice. It summarises the concepts that are important to measure, and presents the way that we think measurement is best done. Chapter 4 offers some concluding thoughts.

2: Why measure trust in justice?

Europe has enjoyed a half-century of unprecedented prosperity and tranquility, bringing lifestyles of comfortable consumerist individualism to many Europeans. Over the last thirty years it has also created widening income disparities in many countries, with a minority of socially excluded people living on very low incomes. One of the by-products of these trends at the end of the last century was rising crime. However, crime peaked in most member states in the mid-1990s and trends since have been generally downward. Reasons probably include the economic upturn enjoyed by many countries in the 1990s, better crime prevention and security design, and better policing.

It is over-optimistic to expect these downward trends to continue into the middle of the century. Member States and EU institutions should anticipate growing rather than receding threats to social order. Europe faces what at best may prove a short-term period of economic turbulence, triggered by the 2008 banking crisis; at worst this could turn into a serious challenge to the Euro-economies. Those countries with fragile economies have little choice to agree to swingeing public expenditure cuts, and it is hard to see how these cuts can avoid fuelling social inequality.

Other trends will exacerbate these processes. Globalisation and increasing competition, for example from the South Asian and Chinese economies, are driving down the wages of the less affluent sectors of the European population. Migration within Europe and immigration into Europe constitute further threats to social stability. Maintaining commitment to the rule of law will be a growing challenge as populations become ethnically and culturally more diverse. The economies of EU Member States could also be destabilised by the impact of climate change and even by viral pandemics. The precise impact of these threats is unknown, but they are all likely to increase income disparities, to amplify the social exclusion of the poorest segments of the population and thus to intensify problems of crime and order maintenance.

There are two broad policy responses to the problems of crime and disorder: repressive and inclusionary strategies. Repressive strategies rely for their effectiveness on imposing a price on offending that is high enough to deter those who are tempted to crime. Over the last twenty years or so there have been pressures on governments to adopt more explicitly repressive measures. The growing prison population and prison overcrowding in Europe can be seen as one of the effects of instrumental criminal policies. Most member states have been under pressure to respond to public opinion about “law and order”. This is partly a consequence of long-run upward crime trends. But – especially in common-law jurisdictions such as Britain – one can see the emergence of forms of penal populism whereby politicians choose criminal policy as the

battleground upon which they can fight with their opponents to demonstrate their competence and tough-mindedness. Media news values make crime a saleable commodity, and the media are very ready to construct crises which politicians can vie to solve (cf Roberts et al., 2002). This is not to argue that strategies that are “tough on are redundant, but to place them as the centrepiece of justice policy could prove a fundamental misjudgement.

There is a growing body of evidence that coercing compliance with the law is a less efficient route to social order than securing normative compliance – that is, getting people to accept the rule of law because they believe it is right to do so (cf Tyler, 2006, 2010, 2011; Hough et al., 2010). One can differentiate between inclusionary strategies that are premised on *economic inclusion* to achieve social justice and those that aim to demonstrate that the institutions of justice are themselves *fair and just*. It is the latter group of strategies, based on theories of procedural justice, with which the Euro-Justis project is concerned. Let us now consider in more detail these theories of normative compliance, and in particular procedural justice theories.

The conceptual foundation of Euro-Justis: theories of normative compliance

Classical criminology and common-sense thinking about crime tend to appeal to a simple model of crime control (cf. Hough, 2007) in which:

- people are rational-economic calculators in deciding whether to break the law;
- a deterrent threat is the main weapon in the armoury of criminal justice;
- offenders – and thus crime rates – are responsive primarily to the risk of punishment, which can vary on dimensions of certainty, severity and celerity;
- increasing the severity of sentencing, and extending the reach of enforcement strategies, are therefore seen as sensible responses to crime; and,
- offender rights tend to be seen as a constraint on effective crime control.

More subtle models of crime control recognise that formal criminal justice is only one of many systems of social control, most of which have a significant normative dimension. People choose not to offend out of moral or ethical considerations, and not – generally – through a calculation of self-interest. Criminology has given insufficient attention to questions about why people comply

with the law, and too much attention to questions about why people break the law (cf Bottoms, 2001). The imbalance is important, because questions about reasons for law-breaking tend – not inevitably but because of the political climate in which policy is developed – to yield answers framed within the boundaries of the simple crime control model described above, finding solutions to crime control that are designed to secure *instrumental compliance*.

Questions about compliance, by contrast, yield answers that recognise the interplay between formal and informal systems of social control, and in particular the normative dimensions in people's orientation to the law. Normative compliance with the law occurs when people feel a moral or ethical obligation or commitment to do so. Theories of normative compliance posit a range of mechanisms by which people acquire – or lose – norms of acceptable behaviour.

It is helpful to think of a broad family of compliance theories which can be traced back to Durkheimian and Weberian thinking about the roots of social order. There are two distinct sides to the family. On the one hand, there has been increasing (or perhaps, more accurately, rediscovered) interest over the last two decades in the relationship between 'political economy' (cf Reiner, 2007), which trace the connections between the social distribution of wealth and attachment to – or detachment from – social norms. The emergence of neo-liberal economic policies is obviously implicated in the renewed academic interest. The idea that high levels of income inequality fuel crime is almost a criminological truism, with a long sociological pedigree in strain theory.

Theories of institutional anomie (cf Messner and Rosenfeld, 2001, 2010) serve as good current variants on this line of thought. According to these, rapid transitions towards the values of free-market economies can unbalance and weaken traditional normative systems of social control. Over the last two decades, establishing the relationships between forms of inequality and detachment from social norms has become less a matter of speculative sociology and increasingly an empirical issue. There is a growing body of comparative research looking at relationships between economic inequality, trust in institutions and crime rates (eg Lappi-Seppälä, 2011; Cavadino and Dignan, 2005).

On the other hand, there are compliance theories about the impact on societal norms of the institutions of formal social control. Some of these are clearly in the Durkheimian tradition. For example, Beetham (1992) argues that the legitimacy of institutions of justice derives at least in part from their alignment with the moral values of the policed. The work of Robinson and Darley is also in this tradition. Thus Robinson and Darley (1997) argue that if the law's potential for building

a moral consensus is to be exploited, the sentence of the court must be aligned at least to some degree with public sentiments. These ideas are sometimes called intuitive justice theories.

If Robinson and Darley argue the need for judicial *outcomes* to be aligned with public values, procedural justice theorists like Tyler (eg 2006, 2010, 2011) emphasises the need for justice institutions to pursue fair and respectful *processes* as the surest strategies for building trust in justice, and thus institutional legitimacy and compliance with the law. This is the central hypothesis in procedural justice theory.

The two broad families of compliance theory – with their different emphasis on securing social justice and a fair system of justice – are obviously compatible. Social justice and fairness in the justice system are both likely to be preconditions for a well-regulated society. However, only the second family carries direct implications for policy and practice within policing and criminal justice – and the most direct implications flow from procedural justice theories. Many criminologists would like to see the crime-preventive dividend of a fairer distribution of income and wealth, but for police chiefs and for politicians with explicit responsibility for crime control, and, these arguments are inevitably subsidiary to ones about what they should do in the ‘here and now’ of improving systems of justice.

Procedural justice theories

Procedural justice theories are especially useful in making sense of issues around trust in the police, beliefs about police legitimacy and public compliance and cooperation with the law. Legitimacy is a central concept here. There are two uses of the term. Political philosophers often talk of political systems as achieving legitimacy when they meet various agreed objective criteria, to do with acceptance of democratic norms and observance of human rights. Assessments of this sort also involve subjective judgements, of course, about the nature of the ‘good or just society.’ But there is a separate set of questions about the ability of a criminal justice system to command legitimacy in the eyes of the public - whether the *policed* see the *police* as legitimate. These questions are open and empirical, and require examination of public attitudes, values, behaviours and beliefs.

Perceived legitimacy exists when the policed regard the authorities as having earned an entitlement to command, creating in themselves an obligation to obey the police. If people willingly offer their obedience to systems of authority that command legitimacy, questions about the ‘drivers’ of legitimacy become of central policy importance. Procedural justice theories

propose that perceived legitimacy flows from public trust in institutions; and that public trust is at least in part a function of the quality of treatment that the public receive from justice officials. Thus if the police treat people fairly and respectfully, and if this treatment is aligned with public perceptions of morality, they will be regarded as having legitimate authority, and will be better able to command compliance and cooperation.

Penal populism and procedural justice

It is a straightforward enough idea that people are more likely to comply with the criminal law, and with law officers, when these are seen to be fair and even-handed. In reality however, many developed countries have seen a progressive toughening up of their criminal justice policies, and a growing political impatience with what is seen as a debilitating culture of human rights. There has been a marked coarsening of political and media discourse about crime and justice (cf Lappi-Seppala, 2011). It seems fairly clear that there are structural pressures on politicians – which are intense in some forms of ‘adversarial’ two-party democracies – to offer tough, no-nonsense, populist solutions to crime problems (cf Roberts et al., 2002). The difficulty with this is that no-nonsense solutions often tend to be genuinely nonsensical, premised on the faulty assumption that persistent offenders adopt the form of *homo economicus*, fine-tuning their criminal behaviour in the face of varying levels of deterrent threat. Criminal justice politicians risk getting trapped within these over-simplified economic theories of instrumental compliance. This is not to argue that instrumental strategies for securing compliance are redundant; but to place them as the centrepiece of justice policy is a fundamental misjudgement.

Procedural justice theorists (eg Tyler, 2009, 2011) argue that strategies of instrumental compliance are costly and ineffective. The argument is that motive-based, voluntary self-regulation based on perceptions of the legitimacy of the law is more effective, more economical and more durable over time. According to the procedural justice perspective people are willing to accept decisions and outcomes that they do not regard as being in their personal best interests – provided that they consider justice institutions and officials to be wielding legitimate authority. This points to the possibility of creating a system of social control which is based upon the willing consent and cooperation of citizens, rather than upon the threat of punishment. If such a vision is to be even partly achieved, it will be important to nudge political and public debate towards a greater appreciation of the normative dimension in regulating behaviour. For liberally minded reformers a particular attraction of procedural justice theories are that they promise to resolve the tension that is often thought to exist between effective crime control and the respecting of

people's rights³. They point to the conclusion that fair, respectful and legal behaviour on the part of justice officials is not only ethically desirable, but is a prerequisite for effective justice.

Evaluating policy against criteria of trust in justice

If member states take up the challenge of evaluating their crime policies against criteria of trust in justice, what does this mean in practical terms? It may be helpful to consider stop-and-search policing tactics and the policing of demonstrations as examples.

Stop-and-search tactics are widely used by police forces across the world, and widely valued by police officers as an effective strategy for tackling crime. The evidence to support this proposition is not overwhelming; however, for the sake of argument, let us assume that intensive stop-and-search can drive down street crime. Simply against narrowly defined crime reduction criteria, the use of these tactics is thus justified, and policy decisions are needed about the affordability and scale of their use. However, if the impact on public trust is also factored in, one may reach very different conclusions (see Tyler, 2011 and Bowling, 2008 for fuller discussions). Most stops do not result in arrests, and a significant proportion of those who are stopped may feel aggrieved at the unwarranted police suspicion and the inconvenience of being stopped. These feelings may be intense amongst ethnic minority groups who believe that they are picked on simply because of their minority status. The French Euro-Justis pilot survey provides evidence of this. Thus when policy balances the costs and benefits of the use of stop-and-search, the non-financial as well as the financial costs need to be taken into account. And to do this, some empirical evidence is needed about the perverse impact of such tactics on public trust.

Similar considerations apply to the tactic of 'kettling' or 'corralling' of demonstrators when policing public order. Kettling involves limiting the impact of a demonstration by retaining demonstrators by force in very small areas. Its impact is both incapacitative (in that protestors can do very little, once kettled) and deterrent (though this is not usually acknowledged) – in discouraging people from participating in future events. Against criteria of the maintenance of public order, kettling is transparently effective. Against criteria of public trust in policing, it may well be counterproductive. Policy needs to balance the short-term gains against the costs in terms of restrictions of rights and the alienation of participants and others who identify with their cause

³ For more radically minded reformers, of course, procedural justice approaches to crime control may appear a threat, in the sense that they may be construed as promoting false consciousness amongst the victims of economic inequality, that make their relative disadvantage more tolerable.

(see HMCIC, 2009, for an excellent discussion of these issues). To make this calculation there is a need for evidence of the impact of the use of kettling on public trust in the police.

Trust as an organizing concept in justice policy

Our analysis shows that few member states currently place the sort of emphasis on trust in justice that we regard as necessary (cf Jokinen et al., 2009). If policy in member states attends more closely to issues of public trust in the criminal justice system, this should result in systems that are both more just – in the broadest sense – and more effective in tackling crime. If member states are to achieve balanced and effective crime policies, they need to pay closer attention to issues of trust and legitimacy. If they ignore these factors, their criminal policies risk becoming skewed towards short-term crime control strategies at the expense of ensuring that the justice system commands legitimacy and that citizens feel safe and secure. Measures of trust in justice and the legitimacy of legal authorities can be used to inform careful and long-term policies to foster public compliance instead of short-term and 'electioneering' strategies that exploit public feelings for political gain.

Too often today, policy makers tend to base their policy decisions upon an assumed "public dissatisfaction" or "public concern" on various matters of justice, in the absence of any reliable scientific measure of confidence either at the European or country level. As a result, policy is not driven by scientific and transparent measurement of public attitudes to justice. Member States need well-designed indicators of public trust and institutional legitimacy if they are to devise, track and evaluate criminal justice policies. If Governments lack proper indicators and scientific evidence on the trajectory of trust and legitimacy over time, they will be unable to measure the impact of such policy. Trust and legitimacy indicators are vital for better formulation of the problems of public confidence, and more effective monitoring of changes in public confidence in response to policy innovation.

It is also important to measure trust in justice through an integrated and European approach, since so many areas of European policy are now strictly interdependent. The process of European integration brings about the need for comparative information on social development. Additional to any benefits related to integration, however, there are obvious benefits for domestic policy assessment if Member States are able to benchmark their own performance against their neighbours' and the European norm, using properly validated comparable measures.

3: How to measure trust? Survey measures of trust in justice

This chapter presents a short guide on how to use the survey indicators developed by the Euro-Justis project. It discusses what survey ‘vehicles’ might be used to carry the survey items that are selected, and it makes some suggestions about which items should be used. However we do not open up more general issues, such as the best sampling strategies and interviewing modalities to use.

Survey indicators for policy

According to Land (1983), there are different types of social indicators. He uses the terms “normative welfare indicators” to refer to indicators which focus on objective measures of welfare, subject to the interpretation that there is a *right* direction to judge whether things are better – such as crime or health. There are also “satisfaction indicators”, which measure psychological satisfaction – such as happiness - instruments that ascertain the *subjective reality* in which people live.

Applying this typology of social indicators to crime, most member states assess the success of their crime policies by reference to levels of crime, usually measured by police statistics or by national surveys of victimization or the International Crime Victimization Survey. In other words, normative welfare indicators are being used, under the assumption that lower crime rates and victimization rates are the signs of a better society. While these indicators are important measures, the Euro-Justis project advocates rather greater use of subjective - or perceptual – indicators, to assess criminal policy and practice against criteria of public trust.

How to field Euro-Justis survey indicators

Most policy indicators, in criminal justice as elsewhere, are derived from administrative records – the data created by bureaucracies in the course of their everyday work. Survey indicators necessarily require a special data collection process. The options are:

- where the jurisdiction in question is included in the fifth European Social Survey (ESS), to

use this source of data.

- to mount a free-standing survey
- to insert questions in an established survey instrument, such as a national crime survey
- to buy space in a commercial ‘omnibus’ survey

Which option to select depends on the depth and breadth of coverage that is desired. For those countries that took part in the fifth ESS, the best and cheapest option is to draw on these results. It will be possible either to use published results – when these become available in 2012⁴ – or to commission researchers to carry out bespoke analysis.

The key advantage to any jurisdiction of using the ESS to assess public trust in justice is that of comparability: it is possible to make sense of country-level findings by comparing them with those of similar jurisdictions. The biggest limitation is that trend data cannot be assured: there is no prospect of *regular* repeats of the module trust in justice, and an uncertain prospect of *any* repeat of the module.⁵ However, it would be possible to secure trend data by repeating the module in another survey.

For those countries that did not participate in the fifth ESS, the options are to mount a free-standing survey, or to insert questions in a pre-existing survey. The full suite of questions developed by Euro-Justis (80, downloadable from <http://www.eurojustis.eu/fotoweb/76.pdf>) would require a free-standing survey in view of its length. It would take around 30 minutes to complete (with relevant socio-demographic measures). This is also the most costly option. The costs of a probability survey of 1,000 people will vary from country to country, ranging from €15,000 to €50,000 or more.

If less in-depth coverage was required, it would be possible to insert a version of the ESS module on trust in, for example, a national crime survey. In piloting, the module took between 15 and 20 minutes (on average) to administer, and the final version (downloadable from <http://www.eurojustis.eu/fotoweb/69.doc>) was slightly shorter. For example, a Japanese university has recently mounted a survey in Japan that combines the questionnaire of the

⁴ The ESS data are placed in the public domain when they have been checked and edited, and any academic institution may analyse them. The Euro-Justis team will be doing so, as will others.

⁵ It would be necessary to bid competitively for space in the ESS questionnaire at some point in the future.

International Crime Victimization Survey with the ESS trust module. It would also be possible to mount a short survey comprising solely of the module and the necessary demographic data.

Those jurisdictions who do not wish to go for any of these options could consider including a few key questions in a government or commercial omnibus survey. Leaving aside ESS analysis, this is the cheapest option.

Attitudinal data on trust in justice can sometimes fluctuate sharply and rapidly (see eg Parmentier and Vervaike, 2011), but in general trends alter only gently over time. Thus there may be only limited value in repeating surveys more than once a year. The exception is where dramatic and highly visible events may have a very marked impact on attitudes.

Which questions to include?

The Euro-Justis suite of questions included public assessments of fairness, effectiveness and value-expressive aspects, contact with the police, intention to support (e.g. reporting crimes, giving evidence in court), knowledge about the criminal justice system, and perceived legitimacy. The questions were designed in part to enable analysis to identify the relationships between different concepts relating to trust in justice. Table 3.1 summarises these concepts.

Which questions to include will depend on policy priorities. If an overall indicator of trust in institutions is all that is needed, we recommend indicators that take the following form:

Taking into account all the things the [police/courts] are expected to do, would you say they are doing a good job or a bad job? Choose your answer from this card. [Very good job/Good job/Neither good nor bad job/Bad job/Very bad job]

On the other hand, it may be thought important also to have indicators of the sub-concepts that constitute overall trust in the police or the courts. In this case, it would be necessary to ask the battery of questions measuring trust in police or court effectiveness, distributive fairness and procedural fairness. As each sub concept in our suite of questions is usually measured by a scale derived from three survey items, this would involve asking 18 questions – if both the police and courts were covered.

Table 3:1 Overview of key Euro-Justis indicators

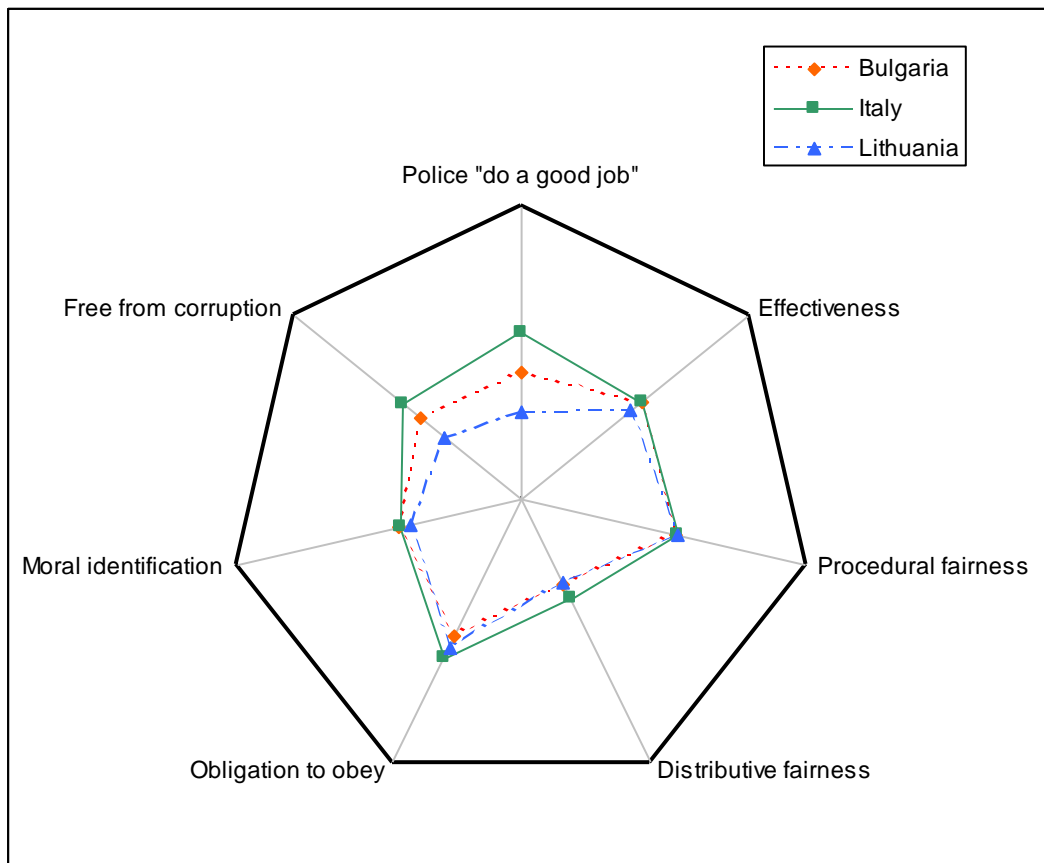
CONCEPT	SUB-CONCEPT
Trust in the police	Trust in police effectiveness
	Trust in police distributive fairness
	Trust in police procedural fairness
Trust in the courts	Trust in court effectiveness
	Trust in court distributive fairness
	Trust in court procedural fairness
Perceived legitimacy of the police	Obligation to obey the police
	Moral alignment with the police
Perceived legitimacy of the law and the courts	Obligation to obey the law and court decisions
	Moral alignment with the courts
<i>Competing motives to comply with the law</i>	
Perceived risk of sanction	-
Personal morality	-
Compliance with the law	-
Cooperation with the police and courts	-
Contact with the police	Police-initiated positive experience
	Police-initiated negative experience
Perceived legality of police and court action	-
Punitive attitudes	-
Anxiety about crime	-
Media consumption	-

We have proposed that trust is the key concept for which indicators are needed, on the basis that improved trust builds legitimacy, compliance with the law and cooperation with justice. Some jurisdictions may regard it as a luxury to have indicators of these factors, additional to measures of trust. On the other hand, we suggest that it is important for policy fully to assess the various factors that promote compliance and cooperation with the law. So indicators of trust may be the top priority, but it is also highly desirable to include indicators of institutional legitimacy.

Presenting indicators

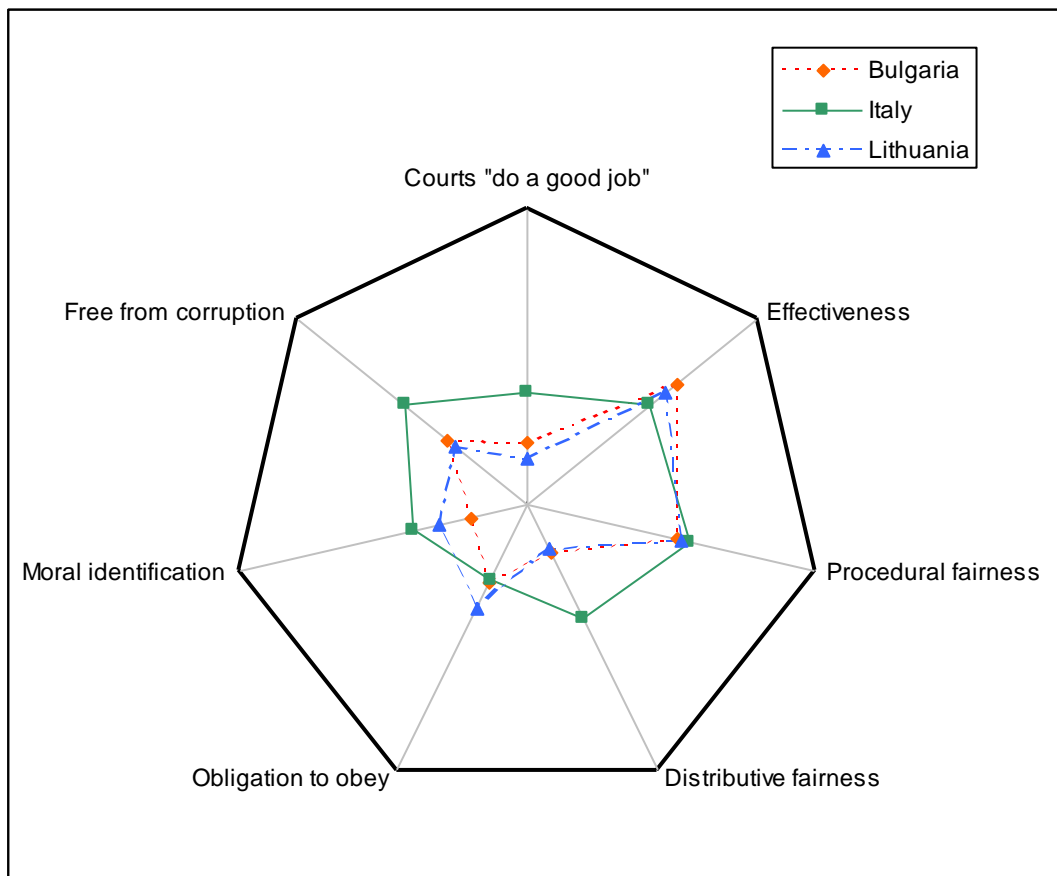
Whatever indicators are settled on, it is worth investing some effort in presenting the results in a way that is quickly and easily assimilable by politicians and their officials. We suggest that spidergrams are a very useful technique for presenting complex data visually. Two examples, using data from the pilot surveys, are shown below.

Figure 3:1 Spidergram presenting selecting police indicators from pilot surveys



Note: datapoints are based upon single indicators, some of which were designed to work alongside other indicators to represent an underlying, latent construct. The spidergram is for illustrative purposes only

Figure 3:2 Spidergram presenting selecting court indicators from pilot surveys



Note: datapoints are based upon single indicators, some of which were designed to work alongside other indicators to represent an underlying, latent construct. The spidergram is for illustrative purposes only

4: Concluding thoughts

The growing visibility of procedural justice theory within criminology on both sides of the Atlantic is important, in particular because of its potential impact on policy. It is arguable whether the marked tendency towards penal populism amongst UK and US politicians is part of a universal trend amongst developed countries. The pessimistic view (which Euro-Justis shares) is that structural features of late-modernity place many European countries at risk of the same processes as we have seen in the UK: the emergence of an increasingly crude discourse about crime control which emphasises:

- ‘common sense’ strategies for securing instrumental compliance from ‘criminals’;
- sharp distinctions between ‘criminals’ and the ‘law abiding majority’
- greater responsiveness to the wishes of the ‘law-abiding majority; and,
- greater responsiveness to the needs of victims.

This discourse tends to characterise rights as a ‘zero sum game’ in which rights of offenders are in tension with those of victims and the ‘law-abiding majority. Being ‘on the side of the victim’ within this discourse equates with a preparedness to shave away the rights of suspects and defendants. Procedural justice theory suggests that this is likely to be counterproductive: if the justice system ignores the rights and entitlements of ‘the policed’, this creates the potential for a growing deficit in legitimacy which shows itself in reduced compliance with the law.

In an over-simplified discourse about crime control the rationale for improving ‘confidence in justice’ is that greater consumer satisfaction on the part of the ‘law-abiding majority’ will secure their cooperation with the authorities – through reporting of crimes, and acting as witnesses etc. – thus enhancing the deterrent effectiveness of the system. A procedural justice perspective would direct attention to ‘trust building’ amongst those parts of the population whose commitment to the rule of law is more tentative, the primary purpose being to secure compliance first, and cooperation second. The available evidence suggests that fostering trust and legitimacy via fair and decent treatment would pay dividends across the population. If this is so, then it is of great importance to measure public trust in justice sensitively and carefully. The procedural justice perspective is a valuable one for member states. It provides a rationale for explaining why the criminal justice system should actually treat *justice* as the central product of the system. It provides a vocabulary for explaining why fairness and rights – for everyone – are important.

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